

Exhibit “A”

PROMISSORY NOTE SECURED BY DEED OF TRUST
(This Note contains an Acceleration Clause)
BALLOON PAYMENT NOTE

☒ INTEREST ONLY ☐ PARTIALLY AMORTIZED ☐ FULLY AMORTIZED ☐ OWNER USER
☐ OWNER OCCUPIED ☒ NON-OWNER OCCUPIED
☐ CONSUMER PURPOSE ☒ BUSINESS PURPOSE ☐ BUSINESS ENTITY

Loan Number: [REDACTED]
Property Address: 1047 CHERRY STREET, SAN CARLOS, CA 94070
Loan Amount: \$308,000.00 SAN MATEO, California

November 11, 2020

In installments as herein stated, for value received, YINTAO YU, TRUSTEE OF THE 1047 CHERRY STREET TRUST, DATED JULY 28, 2017, the undersigned Borrower(s), promise to pay to DOUGLAS G. SYKES, Lender at a place that may be designated by Lender, the sum of: \$308,000.00, Three hundred Eight thousand dollars with interest from the date of funding on the unpaid principal at the rate of 8.500% per annum, payable as follows:

Number of Payments	Amount of Payments	When Payments Are Due
23	\$ 2,181.67	Monthly Beginning: 01/01/2021 Due on the FIRST day of each month
1	\$ 310,181.67	12/01/2022

The maturity date of this loan is 12/01/2022, at which time all sums of principal, interest, and other charges, then remaining unpaid shall be due and payable in full. Interest shall be calculated on a 360 day year and on an ordinary annuity calculation basis. At the option of Lender, each payment shall be credited first on impounds then due, then interest due, then on late charges, then on interest on advances, then on advances, then on default interest, then on advance fees and other fees and charges incurred, and the remainder on principal. Interest shall thereafter cease upon any principal so credited. Should full payment not be received, including any impounds due, Lender may apply the amount received in its sole discretion.

In Case of an Interest Only or Partially Amortizing Loan: Should any portion of principal be paid prior to the maturity date of this loan, Lender reserves the right to keep the monthly payment amount consistent with what is showing as the regular monthly payment above. However, the amount due at the time of the maturity will change with principal paydown.

WHEN PAYING OFF ANY AMOUNT OF PRINCIPAL GREATER THAN \$50,000.00, SAID PRINCIPAL MUST BE PAID IN THE FORM OF A CASHIER'S CHECK, MONEY ORDER, WIRE OR TITLE COMPANY FUNDS. SHOULD BORROWER CHOOSE TO PAY IN THE FORM OF A PERSONAL CHECK, AN ADDITIONAL TEN (10) CALENDAR DAYS OF INTEREST MAY BE CHARGED AS IT CAN TAKE UP TO TEN (10) BUSINESS DAYS TO FULLY CLEAR THE BANK (IN CASE OF A NON-SUFFICIENT FUND CHECK NEEDING A SECOND CLEARANCE PERIOD, FOR EXAMPLE).

Irregular Payments. We may accept late payments or partial payments or checks, drafts or money orders marked "Payment in Full" without losing any of our rights under this Agreement.

Default on Loan. Upon default in any payment of any installment or any other default under the loan documents, the Note, or the Security Instrument, then the balance of this obligation shall become due immediately at the option of the holder of the Note; principal, interest, and any and all amounts due Lender are payable in lawful money of the United States of America. Except where federal law is applicable, this Note shall be construed and enforceable according to the laws of the State of California for all purposes and any terms herein inconsistent therewith are hereby modified to conform to said law at the time of signing of these loan documents. Time is of the essence for each and every obligation under this Note.

If this Note, or any amounts under this Note, is not paid when due, or there is any other breach under the loan documents, the Borrower(s) promise to pay, in addition to the principal, interest, advances, interest on advances, default interest and any other amounts due under this Note, all costs of collection and all reasonable attorneys' fees incurred by Lender for said collection, whether or not suit is filed hereon. Each Borrower consents to renewals, replacements, and extensions of time for payment if granted by Lender, before, at, or after maturity; consents to the acceptance of security for this Note and waives demand, protest and any applicable statute of limitations. Advances shall bear interest at the interest rate stated in the Note or the Default interest, whichever is higher, from date of advance until date paid in full.

Exhibit A

THE FOLLOWING PROVISIONS MAY RESULT IN THE COMPOUNDING OF INTEREST ON YOUR LOAN

At the option of Lender, if any payment remains unpaid after that payment's grace period and/or any payment should be insufficient to pay the interest then due, the balance of interest remaining may, at Lender's sole discretion:

1. Add any unpaid interest and/or late charges to principal and cause it to bear interest at the Note rate as part of the principal

2. Charge Note rate of interest or default rate of interest, if default rate is included in this Note, whichever is higher, upon the unpaid interest amount until interest is paid current

Additionally, at the option of Lender, if any principal and/or interest installments, late charges, advances and/or costs should be repaid through or by any forbearance, bankruptcy plan or similar repayment plan or by foreclosure, the total sum of these amounts may, at Lender's sole discretion, bear interest at the Note rate or the Default Interest rate from the date due or advanced until the date repaid.

IF BORROWER(S) DO NOT ACKNOWLEDGE THE ABOVE, IT DOES NOT NEGATE THE COMPOUNDING INTEREST CLAUSE. IT WILL STILL BE IN FULL FORCE AND EFFECT.

BORROWER(S) ACKNOWLEDGE COMPOUNDING INTEREST RATE BY INITIALING BELOW:

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Payment Late Charge. If any installment due hereunder is not received by the Lender or their designated agent within ten (10) calendar days, the Borrower to this Note agrees to pay a late charge on each installment of \$5.00 or 10.00% of the delinquent payment, whichever is larger. All late charges are to be paid immediately on demand.

Balloon Late Charge. In addition, if any balloon payment is not received by the Lender or their designated agent within ten (10) calendar days, Borrower will be charged a monthly late charge for each month the balloon remains unpaid in full. Borrower to this Note agrees to pay a late charge equivalent to the maximum late charge which could be assessed on the largest single regular installment due under this Note. This late charge on the balloon payment is to continue to be assessed for each subsequent period of time equal to the regular installment period under this Note until the balloon payment and all other fees, interest and charges due under this Note are paid in full.

Return Check Charge. Borrower and Lender agree that it would be difficult to determine the actual damages to Lender or Lender's agent for the return of an unpaid check provided by Borrower. It is hereby agreed that Borrower will pay the sum equal to 5% of the amount returned or \$25.00, whichever is greater. However, in any event the maximum charge for an unpaid check is not to exceed the sum of \$35.00. This amount is in lieu of any statutory monetary penalty, if any; however, Lender does not waive any other rights that may be awarded under any statute. Should Borrower have two or more returned checks (including automatic clearinghouse ("ACH") payments), for any reason, during the life of the loan, Lender may demand that Borrower make payments in the form of cash, cashier's check or money order.

Right to Assign By Lender. The holder of this Note shall have the right to sell, assign, or otherwise transfer, either in part or in its entirety, this Note, the Deed of Trust, and/or other instruments evidencing or securing the indebtedness of this Note to one or more investors without Borrower's consent.

Prepayment Penalty. The principal and accrued interest on this loan may be prepaid in whole or in part at any time ☐ without paying a penalty; ☒ Lender is guaranteed to receive a minimum of 3 months interest based on the original principal balance together with any odd days interest due or paid through escrow; or ☐ but a prepayment made within N/A months of the date of execution of this Note shall be subject to the following prepayment charge, whether such prepayment is voluntary, involuntary or results from default in any term of this Note or the Deed of Trust by which it is secured: A sum equal to the payment of six (6) months advance interest on the amount prepaid in any twelve (12) month period (non-accumulative) in excess of twenty percent (20%) of the unpaid balance will be charged. If the remaining term of the loan is less than six (6) months, the prepayment consideration shall be in the amount of advance interest for the remaining term on the amount prepaid in excess of twenty percent (20%) of the unpaid balance or the interest due to the end of the loan term, whichever is greater (provided the prepayment penalty does not exceed the amount which would have been received if paid prior to the last six month period). Said pre-payment penalty is to be paid at the time of principal pre-payment.

IF BORROWER(S) DO NOT ACKNOWLEDGE THE ABOVE, IT DOES NOT NEGATE THE PREPAYMENT PENALTY CLAUSE. IT WILL STILL BE IN FULL FORCE AND EFFECT.

BORROWER(S) ACKNOWLEDGE PREPAYMENT PENALTY BY INITIALING BELOW:

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Default Rate. In addition to the interest rate stated above, default interest shall accrue when (a) any monthly installment (either full or partial payment) under this Note remains past due its late period (b) the principal balance is not paid on its maturity date (c) senior lien, including taxes and insurance, is/are delinquent (d) advances are made to protect Lender's interest and/or (e) any other Event of Default under this Note, the securing Deed(s) of Trust or any of the loan document has occurred and is continuing. Default interest under this Note shall accrue on the unpaid principal balance (and any advances made by Lender or Agent of Lender under this note) from the earlier of the due date of the first unpaid monthly installment or the occurrence of such other Event of Default, as applicable, at a rate (the "Default Rate") equal to the lesser of **5.00%** percentage points above the rate stated in the first paragraph of this Note or the maximum interest rate which may be collected from Borrower under applicable law. If the unpaid principal balance and all accrued interest are not paid in full on the Maturity Date, the unpaid principal balance and all accrued interest shall bear interest from the Maturity Date at the Default Rate. This would also include any acceleration of the note due to title transfer, foreclosure or any other reason for acceleration. Borrower acknowledges that (a) its failure to make timely payments will cause Lender to incur additional expenses in servicing and processing the Loan, (b) during the time that any monthly installment under this Note is delinquent, advances are made or the loan is not paid at the Maturity Date, Lender will incur additional costs and expenses arising from its loss of the use of the money due and from the adverse impact on Lender's ability to meet its other obligations and to take advantage of other investment opportunities; and (c) it is extremely difficult and impractical to determine those additional costs and expenses. Borrower also acknowledges that, during the time that any monthly installment under this Note is delinquent or the loan is not paid at the Maturity Date or any other Event of Default has occurred and is continuing, Lender's risk of nonpayment of this Note will be materially increased and Lender is entitled to be compensated for such increased risk. Borrower agrees that the increase in the rate of interest payable under this Note to the Default Rate represents a fair and reasonable estimate, taking into account all circumstances existing on the date of this Note, of the additional costs and expenses Lender will incur by reason of the Borrower's default and the additional compensation Lender is entitled to receive for the increased risks of nonpayment associated with a delinquent/defaulted loan. During any period that the Default Rate is in effect the additional interest accruing over and above the rate stated in the first paragraph of this Note may be immediately due and payable in addition to the regularly scheduled principal and interest payments at Lender's discretion. The accruing and/or charging of the default interest is at Lender's discretion/direction whether to charge said increase of interest rate.

IF BORROWER(S) DO NOT ACKNOWLEDGE THE ABOVE, IT DOES NOT NEGATE THE DEFAULT INTEREST CLAUSE. IT WILL STILL BE IN FULL FORCE AND EFFECT.

BORROWER(S) ACKNOWLEDGE DEFAULT INTEREST RATE BY INITIALING BELOW:

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Advancing Fee. For any advances made to senior encumbrances and/or obligations to protect Lender's interest in this Note, there will be an advancing fee equal to three (3%) of the amount so advanced subject with a minimum fee of fifty dollars (\$50) per advance made by each Lender. Advances will bear interest at the same rate that is charged on the principal of this Note from the date of advancement to such date when all monies are paid in full in the form of cash and/or certified funds. **ALL ADVANCES ARE TO BE REPAID AT NOTE RATE OR DEFAULT INTEREST RATE, WHICHEVER RATE IS HIGHER, FROM THE DATE OF ADVANCE UNTIL THE DATE FUNDS ARE RECEIVED BY LENDER.** If Lender makes an advance, Borrower is responsible for the advance, advancing fee(s) stated above, and any cost of the title endorsement associated with the advance.

Senior Loan Information. If this loan is in a junior position loan, Borrower must provide Lender, upon written or verbal request, all current information necessary, by both telephone and internet access if available, to determine whether senior lienholders are current. All senior loans and senior liens must be in a current status or a default under this loan will have occurred.

Oral Representations. Borrower hereby states that neither Lender, Lender's representative(s), any employee of Lender, or any employee of COMMERCIAL MORTGAGE CORPORATION has mentioned, given actual details(s) or discussed terms of this loan other than what has been agreed to in writing.

Bankruptcy Administration Fee. A Bankruptcy Administration Fee will be charged for each bankruptcy filed by Borrower and/or each bankruptcy that affects the Property in an amount of \$250.00 for each case filed. All parties agree that this additional fee is to compensate Lender or Lender's servicing agent for the additional tracking, accounting, communications, and work required when a bankruptcy is filed. This fee is in addition to any attorneys' fees which may be due or payable to Lender and/or Lender's servicing agent's attorney or reimbursement to Lender and/or Lender's servicing agent for work performed by said attorney during bankruptcy.

Severability; Entire Agreement; Amendments. The parties intend that the provisions of this Note, and all other Loan Documents, including the Deed of Trust securing the indebtedness, shall be legally severable. If any term or provision of this Note or any other loan document, including the Deed of Trust securing the indebtedness, be determined to any extent by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Note or of such other loan document, including the aforesaid Deed of Trust, shall not be affected thereby and each term and provision shall be valid and be enforceable to the fullest extent permitted by law. This Note and the aforesaid Deed of Trust contain the entire agreement between the parties as to the rights granted and the obligations assumed in this Note. This Note may not be amended or modified except by a writing signed by the party against whom enforcement is sought.

Binding Terms. This Note and all of the covenants, promises and agreements contained in it shall be binding on and inure to the benefit of the respective legal and personal representatives, devisees, heirs, successors, and assigns of Borrower and Lender.

Acceleration Clause. This Note is secured by a Second Deed of Trust of even date herewith naming FIDELITY NATIONAL TITLE COMPANY, as trustee, which contains the following provision:

In the event of sale or transfer, conveyance or alienation of the Property, or any part thereof, or any interest therein, whether voluntary or involuntary (or if Borrower is not a natural person and twenty-five percent (25%) or more of that entity that is Borrower is sold or transferred), Lender shall have the right of acceleration, at its option, to declare the Note secured by the Deed of Trust, immediately due and payable, irrespective of the maturity date expressed therein, and without demand or notice. No waiver of this right shall be effective unless it is in writing. Consent by Lender to one such transaction shall not constitute waiver of the right to require such consent to succeeding transactions. The acceptance of funds from any party other than Borrower does not constitute acceptance of any transfer of the Property and acceleration under this clause may still occur and/or continue.

Non-Cannabis Use Agreement. Borrower and Lender agree that Borrower shall be prohibited from any and all cannabis/cannabis product sale, use and/or growth on the property while the Loan is still active. Should the Borrower fail to comply with this agreement, the Lender, at its discretion, may immediately declare the Loan in default and may accelerate the Loan. This includes leasing subject property to a tenant who intends on cannabis/cannabis product sale, use and/or growth on the property.

No Assumption of Note. This Note is not assumable if Borrower sells, assigns, or otherwise transfers, including to heirs and/or devisees, either in part or in its entirety, the security for this Note, the Deed of Trust, and/or other instruments evidencing or securing the indebtedness of this Note.

Modification/Forbearance. Should Lender agree to review the loan for any modification and/or forbearance, due to the time and expense to negotiate and document the modification and/or forbearance, Lender may require a deposit, amount to be determined by Lender, prior to the commencement of the loan modification and/or forbearance. Additional fees for any modification and/or forbearance will be delineated in discussions and/or the written final agreement. Said deposit may or may not be credited to the final modification and/or forbearance. Should existing law at time of negotiations preclude Lender from charging a fee for a modification and/or forbearance, no such deposit shall be charged. The granting of a loan modification is not a guarantee of further modifications of the loan. Lender reserves the right to deny any request for a further modification of the loan should a modification and/or forbearance already been granted.

"BORROWER SHALL PROVIDE, WITH EACH MONTHLY PAYMENT, A COPY OF THE MOST CURRENT MORTGAGE STATEMENT FROM ALL LIENHOLDERS THAT ARE SENIOR TO LENDER. FAILURE TO SO PROVIDE SHALL CONSTITUTE A DEFAULT UNDER THIS PROMISSORY NOTE AND INCUR A LATE CHARGE."

BY SIGNING BELOW, BORROWER ACCEPTS AND AGREES TO THE TERMS AND COVENANTS CONTAINED IN THIS NOTE.

BORROWERS:



11/12/2020

YINTAO YU, TRUSTEE OF THE 1047 CHERRY STREET TRUST, DATED JULY 28, 2017 / Date

DO NOT DESTROY THIS NOTE: When paid, this Note, with Deed of Trust securing same, must be surrendered to the Trustee for cancellation before reconveyance or Trustee's Deed. This loan was originated by COMMERCIAL MORTGAGE CORPORATION, License No. 00832164, a company licensed by the California Department of Real Estate.

Page 4 of 4

Exhibit “B”

RECORDING REQUESTED BY

WHEN RECORDED MAIL TO

DOUGLAS G. SYKES
275 ALVARADO ROAD
BERKELEY, CA 94705-1512
Loan Number: [REDACTED]

Property Address:
1047 CHERRY STREET
SAN CARLOS, CA 94070
APN # 046-126-210
COUNTY: SAN MATEO



SPACE ABOVE THIS LINE FOR RECORDERS USE

The primary person responsible for the origination of this loan is LEON GLUCK CALDRE [REDACTED] employed by COMMERCIAL MORTGAGE CORPORATION CALDRE [REDACTED]

DEED OF TRUST AND ASSIGNMENT OF RENTS

DEFINITIONS:

Words used in multiple sections of this document are defined below and other words are defined throughout this document. Certain rules regarding the usage of words used in this document are also provided in Section 14.

(A) "Security Instrument" means this Deed of Trust and Assignment of Rents, which is dated November 11, 2020, together with all Riders to this document. This Security Instrument may also be referred to as the "Deed of Trust".

(B) "Borrower" is YINTAO YU, TRUSTEE OF THE 1047 CHERRY STREET TRUST, DATED JULY 28, 2017. Borrower is the trustor under this Security Instrument. Borrower's mailing address is: 2990 RALSTON AVENUE, BELMONT, CA 94002.

(C) "Lender" is DOUGLAS G. SYKES. Lender is the beneficiary under this Security Instrument. The term Lender shall mean the owner and holder, including pledgees, of the Note secured hereby, whether or not named as Lender herein.

(D) "Trustee" is FIDELITY NATIONAL TITLE COMPANY, to whom Borrower irrevocably grants, transfers and assigns property, in Trust, with Power of Sale.

(E) "Note" means the promissory note signed by Borrower and dated November 11, 2020. The Note states that Borrower owes Lender Three hundred Eight thousand dollars (U.S. \$308,000.00) plus interest plus all other amounts that may become due under the Note and this Security Instrument.

(F) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."

(G) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges, late charges, and all other charges due under the Note, all sums due under this Security Instrument, plus interest and other charges. Loan also includes all other documents executed by Borrower conjunction with the Note and this Security Instrument. While there may be sums due under this Security Instrument that are not part of the Loan, such sums are secured by this Security Instrument and may be collected pursuant to the rights granted to Lender herein.

(H) "Riders" means all riders to this Security Instrument that are required by Lender and are executed by Borrower. The following riders are to be executed by Borrower: NONE

(I) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(J) "Community Association Dues, Fees and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(K) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(L) "Escrow Items" mean those items that are described in Section 3.

(M) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5 for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(N) "Periodic Payment" means the regularly scheduled amount due for: (1) principal and interest under the Note; plus (2) any amounts under Section 3 of this Security Instrument.

(O) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. § 2601 *et seq.*) and as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan".

(P) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

(Q) "Loan Servicer" means the entity that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law.

TRANSFER OF RIGHTS IN THE PROPERTY

This Security Instrument secures to Lender: (a) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (b) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in the County of SAN MATEO, which currently has the address of 1047 CHERRY STREET, SAN CARLOS, CA 94070 and fully described as:

SEE LEGAL DESCRIPTION ATTACHED – EXHIBIT "A"

APN # 046-126-210

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges. Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges, late charges, and all other charges due under the Note and the payment of any obligations due under Borrower's Security Instrument(s). Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of

the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer. Additionally, Lender can require payment due to senior encumbrances, including property taxes, insurance, and Homeowner's Association ("HOA") dues, in the forms listed above.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender or Lender's Servicing Agent, in accordance with the notice provisions in Section 13. Lender may return any payment(s) or partial payment(s) if the payment(s) or partial payments are insufficient to bring the Loan current. Lender may accept any payment(s) or partial payment(s) insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment(s) or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. Lender may hold such unapplied funds until Borrower makes payment(s) to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds, at Lender's sole discretion, or return them to Borrower. If not applied earlier, such funds will be applied to any amounts under the Note owed by Borrower. Lender shall decide how to apply funds. Should a Notice of Default be of record, funds may be applied and the Notice of Default shall remain valid with full force and effect. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

2. Application of Payments or Proceeds. Except as otherwise described in this Section, all payments accepted and applied by Lender shall be applied in the following order of priority: each payment shall be credited first on impounds (Escrow Items in Section 3) then due, then interest due, then on late charges, then on interest on advances, then on advances, then on default interest, then on advance fees and other fees and charges incurred, and the remainder on principal. However, should advances be made due to a default under this Deed of Trust, Lender has sole discretion as to the distribution as to how payments shall be applied when received. All Periodic Payments shall be applied in the order in which a payment first became due unless a written forbearance agreement or loan modification agreement is in effect.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied the full payment of one or more Periodic Payments, such excess may be applied to any late charges due, in Lender's sole discretion. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

3. Funds for Escrow Items. Should Lender require, Borrower or his successor shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum to provide for payment of amounts due ("Escrow Funds") for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; and (c) premiums for any and all insurance required by Lender under Section 5. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Escrow Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Escrow Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Escrow Funds for any or all Escrow Items at any time. Any such waiver shall only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Escrow Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under this Security Instrument and pay such amount and Borrower shall then be obligated under this Security Instrument to repay to Lender all such amounts. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 13 and subject to any legal requirements, and, upon such revocation, Borrower shall pay to Lender all Escrow Funds, and in such amounts, that are then required under this Section.

Lender may, at any time, collect and hold Funds in an amount: (1) sufficient to permit Lender to apply the Funds at the time specified under RESPA; and (2) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Escrow Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Escrow Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Escrow Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Escrow Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Escrow Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Escrow Funds, Lender shall not be required to pay Borrower any interest or earnings on the Escrow Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Escrow Funds. Lender shall give to Borrower, without charge, an annual accounting of the Escrow Funds as required by RESPA.

If there is a surplus of Escrow Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Escrow Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than twelve monthly payments. Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Escrow Funds held by Lender.

4. Charges; Liens. Borrower shall perform all of Borrower's obligations under any mortgage, deed of trust or other security agreement with a lien which has priority over this Deed of Trust including borrower's covenants to make payments when due. Additionally, borrower shall pay all taxes, assessments, charges, including garbage billings, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

All Property Assessed Clean Energy assessment/liens ("PACE") (or similar type program) are prohibited. In the event that a PACE assessment/lien becomes a lien on the Property and becomes a part of the payment of property taxes or becomes senior to this Security Instrument in any way, Borrower shall be in breach of the Note and this Security Instrument and Lender has the right to take all acts set forth in Security Instrument and to accelerate this Loan. The loan shall be in default and Lender may proceed with a foreclosure or any other legal remedy as specified in this Security Instrument. This supersedes any and all conflicting language regarding taxes, liens and assessments in this Security Instrument.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 calendar days of the date on which that notice is given (excluding Deed of Trust liens, which need no notice), Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section. Failure to do so by Borrower, may result in Lender accelerating the Note under Section 8.

5. Property Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (1) a one-time charge for flood zone determination, certification and tracking services; or (2) a one-time charge for flood zone determination and certification services and subsequent charges each time re-mappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, except where required by state and/or federal law, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate or Default Rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies,

shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee and Borrower further agrees to generally assign rights to insurance proceeds to the holder of the Note up to the amount of the outstanding loan balance. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee and Borrower further agrees to generally assign rights to insurance proceeds to the holder of the Note up to the amount of the outstanding loan balance.

Prior to close of escrow, and upon renewal and/or change of insurance carrier, Borrower to provide and deliver evidence of insurance to Lender, which is to the satisfaction of Lender.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss to the insurance carrier if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2. Lender or Lender's agent has the right to order inspections to review the repairs and restoration of the Property. The cost for those inspections shall be paid from the insurance proceeds unless paid directly by Borrower.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 calendar days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 21 or otherwise, Borrower hereby assigns to Lender: (1) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument; and (2) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

Whether or not the Lender/Beneficiary has required a particular insurance product, as an example but not limited to earthquake or flood, the Lender/Beneficiary shall be entitled to any insurance proceeds without limitation.

Any cost of acquiring evidence of insurance from current insurance producer, shall be a cost of the Borrower. It will be treated as an advance and charged interest thereon from date cost is paid by Lender and/or Lender's agent to date advance is repaid to Lender by Borrower. Advancing fee applies. Additionally, should Borrower not supply evidence of insurance sufficient for Lender's requirement and an insurance binder must be place by the Lender and/or Lender's agent, the binder fee shall be charged to the Borrower in addition to the cost of Lender placed insurance.

6. Preservation, Maintenance and Protection of the Property; Inspections. Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration. Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause. Additionally, should Borrower be conducting illegal activity on or about the property, this shall constitute a breach under this Security Instrument.

Should this Loan fall into default for any reason or fall under any other city, county and/or state ordinance notification and/or correction situation (i.e. vacant property), Borrower agrees to pay all ordinance and/or registration fees to the city/county

and/or state, and corrective fees and charges when due, and those advanced by Lender. In addition, should inspections be required, Borrower understands that they are responsible for payment of all fees for said inspections. The inspections could be monthly, depending on the requirements of the city, county, and/or state, or depending upon the requirements of Lender.

7. Borrower's Loan Application. Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, fraudulent, misleading, misrepresentation, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence, or funds being used for a business purpose.

8. Protection of Lender's Interest in the Property and Rights Under this Security Instrument. If: (1) Borrower fails to perform the covenants and agreements contained in this Security Instrument; (2) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations); or (3) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (1) paying any sums secured by a lien which has priority over this Security Instrument; (2) appearing in court; and (3) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section, Lender does not have to do so and is not under any duty or obligation to do so. The parties hereto agree that Lender incurs no liability for not taking any or all actions authorized under this Section.

If Lender's interest in the Property is materially affected by any proceeding under the Bankruptcy Code of the United States, Lender, at Lender's option, may take such action, including but not limited to seeking relief from stay to complete foreclosure of the Property under the Bankruptcy Code. Lender may disburse such sums, including reasonable attorneys' fees, as Lender deems necessary, in Lender's sole and absolute discretion, to protect Lender's interest. All such disbursed sums shall be added to the obligation of Borrower and shall be secured by this Security Instrument.

Additionally, a Bankruptcy Administration Fee will be charged for each bankruptcy filed by Borrower and/or each bankruptcy that affects the Property in an amount of \$250.00 for each case filed.

Any amounts disbursed by Lender under this Section shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate or Default Rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

9. Assignment of Miscellaneous Proceeds; Forfeiture. All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender. If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the

following fraction: the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 calendar days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 17, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

10. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

11. Joint and Several Liability; Co-signers; Successors and Assigns Bound. Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 16, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 18) and benefit the successors and assigns of Lender.

12. Loan Charges. Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, foreclosure fees, property inspection, and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is judicially interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might

have arising out of such overcharge.

13. Notices. All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's mailing address set forth in the definitions if sent by other means, including e-mail. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the mailing address set forth in the definitions unless Borrower has designated a substitute notice address that is provided to Lender.

Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address that is provided to Borrower.

Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument. Borrower requests that a copy of any Notice of Default and any Notice of Sale hereunder be mailed to Borrower at the mailing address set forth above, unless Borrower has designated another address that is provided to Lender.

14. Governing Law; Severability; Rules of Construction. This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (1) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (2) words in the singular shall mean and include the plural and vice versa; and (3) the word "may" gives sole discretion without any obligation to take any action.

15. Borrower's Copy. Borrower shall be given one copy of the Note and of this Security Instrument. Borrower acknowledges receipt of same.

16. Transfer of the Property or a Beneficial Interest in Borrower. As used in this Section, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

In the event of sale or transfer, conveyance or alienation of the Property, or any part thereof, or any interest therein, whether voluntary or involuntary (or if Borrower is not a natural person and twenty-five percent (25%) or more of that entity that is Borrower is sold or transferred), Lender shall have the right of acceleration, at its option, to declare the Note secured by the Deed of Trust, immediately due and payable, irrespective of the maturity date expressed therein, and without demand or notice. No waiver of this right shall be effective unless it is in writing. Consent by Lender to one such transaction shall not constitute waiver of the right to require such consent to succeeding transactions. The acceptance of funds from any party other than Borrower does not constitute acceptance of any transfer of the Property and acceleration under this clause may still occur and/or continue.

17. Borrower's Right to Reinstate after Acceleration. If Borrower meets certain conditions, Borrower may have the right to reinstate the Note after acceleration by Lender prior to the earliest of: (i) five business days before sale of the Property pursuant to any power of sale contained in this Security Instrument; (ii) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (iii) entry of a judgment enforcing this Security Instrument.

Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, foreclosure fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender

may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. **However, this right to reinstate shall not apply in the case of acceleration under Section 16.**

18. Sale of Note; Change of Loan Servicer. The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change of Loan Servicer. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information required in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer(s) and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

19. Secret Profit. Under the law, it is unlawful for a Loan Servicer to make "secret profit". Should a Loan Servicer be involved with the servicing of the Loan, a Loan Servicer may not earn interest on the funds in a trust account unless it is to the benefit of the actual owner of the funds. This paragraph is to put Borrower on notice that although interest is not paid to the Loan Servicer, there may be a lower cost basis given by the bank utilized by the Loan Servicer for the monthly analysis performed on the trust account(s). Said lower cost may be reflective of the balances in the accounts. Additionally, when there is a returned check fee being charged, the entire amount is not a "bank charge". Included in the cost of the returned check" which is delineated in the Promissory Note, Loan Servicer shall retain the difference between the "Note" charge and the actual charge by the bank as an additional work charge. In addition, should a tax service be ordered, the Loan Servicer may retain the difference between the actual cost of the service and the amount charged to the you, the Borrower. This difference is the cost for the Loan Servicer to prepare the request for service.

20. Hazardous Substances. As used in this Section: (1) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (2) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (3) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (4) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property: (1) that is in violation of any Environmental Law; (2) which creates an Environmental Condition; or (3) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of: (1) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge; (2) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance; and (3) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

NON UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

21. Default. Upon default by Borrower in payment of any indebtedness secured hereby or in performance of the Note and/or this Security Instrument, and/or any other of the Loan documents, Lender may declare all sums secured hereby immediately due and payable by delivery to Trustee, Agent of Lender or Agent of Trustee, of written declaration of default and demand for sale and of written Notice of Default and of election to cause to be sold the Property, which notice Trustee, Agent of Lender or Agent of Trustee shall cause to be filed for record. Trustee, Agent of Lender or Agent of Trustee shall be entitled to rely upon the correctness of such notice.

After the lapse of such time as then may be required by law following the recordation of said Notice of Default and Notice of Sale

having been given as then required by law, Trustee or Trustee's Agent, without demand on Borrower, shall sell the Property at the time and place fixed by it in said Notice of Sale, either as a whole or in separate parcels and in such order as Trustee or Lender may determine at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee, or Trustee's Agent may postpone sale of all or any portion of the Property by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to such purchaser its deed conveying the Property so sold, but without any covenant or warranty, expressed or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person including Borrower, Trustee or Lender as herein defined, may purchase at such sale.

If the Property consists of several lots, parcels or items of property, Lender may: (a) designate the order in which such lots, parcels or items shall be offered for sale or sold; or (b) elect to sell such lots, parcels or items through a single sale, or through two or more successive sales, or in any other manner Lender deems is in its best interest. Any person, including Borrower, Trustee or Lender, may purchase at any sale hereunder, and Lender shall have the right to purchase at any sale hereunder by crediting upon the bid price the amount of all or any part of the indebtedness hereby secured. Should Lender desire that more than one sale or other disposition of the Property be conducted, Lender may, at its option, cause the same to be conducted simultaneously, or successively, on the same day, or at such different days or times and in such order as Lender may deem to be in its best interests, and no such sale shall terminate or otherwise affect the lien of this Deed of Trust on any part of the Property not sold until all indebtedness secured hereby has been fully paid. In the event Lender elects to dispose of the Property through more than one sale, Trustor agrees to pay the costs and expenses of each such sale and of any judicial proceedings wherein the same may be made, including reasonable compensation to Trustee and Lender, their agents and legal counsel, and to pay all expenses, liabilities and advances made or incurred by Trustee in connection with such sale or sales, together with interest on all such advances made by Trustee at the lower of the rate set forth in the Note, or the maximum rate permitted by law to be charged by Trustee. Trustor hereby waives any and all rights expressed or implied under California Civil Code § 2924g(b).

After deducting all costs, fees and expenses of Trustee and of this Trust, including cost of evidence of title in connection with the sale, Trustee shall apply the proceeds of sale to payment of: (a) all sums expended under the terms hereof, not then repaid, with accrued interest at the rate prescribed in the Note; and then (b) all other sums then secured thereby, and the remainder, if any, to the person or persons legally entitled thereto.

22. Reconveyance. Upon payment of all sums secured by this Security Instrument, Lender shall request Trustee to reconvey this Deed of Trust and shall surrender this Deed of Trust and all notes evidencing debt secured by this Deed of Trust to Trustee. Trustee shall reconvey this Deed of Trust without warranty to the person or persons legally entitled to it. Lender may charge such person or persons a reasonable fee for reconveying the Deed of Trust if the charging of the fee is permitted under Applicable Law. If the fee charged does not exceed the fee set by Applicable Law, the fee is conclusively presumed to be reasonable.

If Borrower pledges more than one parcel of real property as security for the Note, Lender may agree, in its sole discretion, to agree to release a portion of the Property pledged under this Security Instrument for a sum certain that is paid.

If Borrower seeks a partial reconveyance of one of the properties, Lender shall be entitled to charge a fee of \$100.00 for the work necessitated for preparation of the partial reconveyance and said fee shall be presumed to be reasonable. The remaining property described in this Deed of Trust shall continue to be held by said Trustee under the terms thereof. As provided in said Deed of Trust, this Partial Reconveyance is made without affecting the personal liability of any person for payment of the indebtedness secured by said Deed of Trust.

23. Grievances. Neither Borrower nor Lender may commence, join, or be joined to any judicial action, except an appointment of a receiver and/or a judicial foreclosure (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 13) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action, if a corrective action is available under the Applicable Law. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to this document and the notice of acceleration given to Borrower pursuant to this document shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section.

24. Substitute Trustee. Lender, at its option, may from time to time appoint a successor trustee to any Trustee appointed hereunder by an instrument executed and acknowledged by Lender and recorded in the office of the Recorder of the county in which the Property is located. Without conveyance of the Property, the successor trustee shall succeed to all the title, powers and duties conferred upon the Trustee herein and by Applicable Law.

25. Multiple Lender Loans: Pursuant to California Civil Code § 2941.9, if this Deed of Trust has more than one Lender with an undivided interest, it is subject to a signed agreement between all of the Lenders to be governed by the Lenders holding more than 50% of the record beneficial interest of this Deed of Trust. This may occur during escrow or after the close of escrow. Additionally, pursuant to California Business & Professions Code § 10238(i), the holders of more than 50% of the recorded beneficial interests of the notes or interests may govern the actions to be taken on behalf of all holders in accordance with California Civil Code § 2941.9 in the event of default or foreclosure for matters that require direction or approval of the holders, including designation of the broker, servicing agent, or other person acting on their behalf and the sale, encumbrance, or lease of real property owned by the holders resulting from foreclosure or receipt of a deed in lieu of foreclosure.

26. Statement of Obligation Fee. Lender may collect a fee not to exceed the maximum amount permitted by Applicable Law for furnishing the Beneficiary statement and/or Payoff demand statement as provided by California Civil Code § 2943.

27. Senior Lien Information. Lender may require information on any and all senior lien information from Borrower. Said request must be made in writing to Borrower. Borrower must submit the information to Lender within 20 calendar days of the date of request. Said information can include, but is not limited to: name, address, and phone number of senior lien holder, balance due, payment amount, next due date, loan number, amounts advanced, and access codes to on-line systems of senior lienholder that would provide information to Lender about the senior lien.

28. Document Drawing Service. If a document drawing service has been hired to draw loan documents, Borrower hereby agrees to indemnify and hold Document Drawing Service, its officers, agents and representatives harmless from and against all costs, expenses (including, without limitation attorney fees, consulting fees and court costs), claims, demands, lawsuits, judgments, awards, or actions arising out of or related to the Property or the Loan.

29. Indemnification. Borrower hereby agrees to indemnify, defend (with counsel of Lender's and/or Broker's choice) (as to any fees and costs are incurred or accrued) and hold Lender and Broker and their officers, agents, and representatives harmless from and against any costs, expenses (including, without limitation attorneys' fees, consulting fees and court costs), claims, demands, lawsuits, judgments, awards, or actions arising out of or related to the Property or the Loan, including, but not limited to any claims made by contractors, suppliers, mechanics lien claimants, homeowner associations, governmental authorities, stop notice claimants, title companies or persons purporting to be injured on or by the Property or by the acts or conduct of Borrower, its contractors, subcontractors, suppliers and/or other persons dealing with Borrower. If Borrower fails to provide such indemnity as the same accrues and as expenses are incurred, the amount not paid shall be added to the principal amount of the Note and bear interest thereon at the same rate then in effect (including any default rate in effect) and shall be secured by the same collateral as securing the Note and Loan Agreement.

30. Acceptance by Lender of Partial Payment after Notice of Default. By accepting partial payment (payments which do not satisfy a default or delinquency in full), or any sums secured by this Deed of Trust after a notice of default has been recorded, or by accepting late performance of any obligation secured by this Deed of Trust, or by adding any payments so made to the loans secured by this Deed of Trust, whether or not such payments are made pursuant to a court order, Lender does not waive its right either to require prompt payment when due of all other sums so secured or to declare default for failure to make any such payment promptly or to perform any such act. No exercise of any right or remedy of the Lender or Trustee under this Deed of Trust shall constitute a waiver of any other right or remedy contained in this Deed of Trust or provided by law. Any foreclosure action that is pending or has been commenced shall continue and will be with full force and effect.

31. Unsecured Portion of Indebtedness. If any part of the secured indebtedness cannot be lawfully secured by this Deed of Trust, or if any part of the Property cannot be lawfully subject to the lien and security interest hereof to the full extent of such indebtedness, then all payments made shall be applied on said indebtedness first in order to discharge that portion thereof which is unsecured by this Deed of Trust.

32. Waiver of Marshalling; Other Waivers. To the extent permitted by law, Borrower waives: (i) the benefit of all present or future laws providing for any appraisal before sale of any portion of the Property; (ii) all rights of redemption, valuation, appraisal, stay of execution, notice of election to mature or declare due the whole of the indebtedness and marshalling in the event of foreclosure of the lien created by this Security Instrument; (iii) all rights and remedies which Borrower may have or be able to assert by reason of the laws of the State of California pertaining to the rights and remedies of sureties; (iv) the right to assert any statute of limitations as a bar to the enforcement of the lien of this Security Instrument or to any action brought to enforce the Note or any other obligation secured by this Security Instrument; and (v) any rights, legal or equitable, to require marshalling of assets or to require upon foreclosure sales in a particular order, including any rights under California Civil Code §§ 2899 and 3433.

33. 125% Title Insurance Policy. Borrower agrees to allow Lender to obtain a title policy in an amount exceeding the face amount of the Loan by 25% and instruct insuring title company of same. Lender and Borrower acknowledge this increase of coverage is not for the allowance of negative amortization of the principal balance of the Note. This additional coverage is to pay for losses the Lender may incur in a case which could increase the amount above the original principal balance coverage. Said losses could include

unpaid or delinquent interest, late charges, attorneys' fees, advances for insurance, taxes, etc. Borrower agrees this increase of coverage results in a higher title insurance fee for which Borrower shall pay.

34. Severability; Entire Agreement; Amendments. The parties intend that the provisions of this Security Instrument and all other Loan Documents, including the Note evidencing the indebtedness secured hereby, shall be legally severable. If any term or provision of this Security Instrument or any other Loan Document, including the Note evidencing the indebtedness secured hereby, be determined to any extent by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Security Instrument or of such other Loan Document, including the aforesaid Note, shall not be affected thereby and each term and provision shall be valid and be enforceable to the fullest extent permitted by Applicable Law. This Security Instrument and the aforesaid Note contain the entire agreement between the parties as to the rights granted and the obligations assumed in this Security Instrument. This Security Instrument may not be amended or modified except by a writing signed by the party against whom enforcement is sought.

35. Assignment of Rents, Revenues and Profits

(a) All of Borrower's interest in any leases, membership contracts, concessions agreements, rental agreements or any other agreements pertaining to the Property now existing or hereafter entered into, all of the rents, royalties, issues, profits (including crops), revenue, income and other benefits of the Property arising from the use or enjoyment of all or any portion thereof or from any lease or agreement pertaining to occupancy of any portion of the Property now existing or hereafter entered into whether now due, past due, or to become due, and including all unpaid rents, security deposits, prepaid membership fees and dues and other charges (the "Rents and Profits"), are hereby absolutely, presently and unconditionally assigned, transferred and conveyed to Lender to be applied by Lender in payment of the principal and interest and all other sums payable on the Note, and of all other sums payable under the Deed of Trust.

Prior to the occurrence of any Event of Default; Borrower shall have a license to collect and receive all Rents and Profits, which license shall be terminable at the sole option of Lender, without regard to the adequacy of its security hereunder and without notice to or demand upon Borrower, upon the occurrence of any Event of Default. It is understood and agreed that neither the foregoing Assignment of Rents and Profits to Lender nor the exercise by Lender of any of its rights or remedies under the Deed of Trust shall be deemed to make Lender a "mortgagee-in-possession" or otherwise responsible or liable in any manner with respect to the Property or the use, occupancy, enjoyment or operation of all or any portion thereof, unless and until Lender, in person or by agent, assumes actual possession thereof. Nor shall appointment of a receiver for the Property by any court at the request of Lender or by agreement with Borrower, or the entering into possession of the Property or any part thereof by such receiver, be deemed to make Lender a "mortgagee-in-possession" or otherwise responsible or liable in any manner with respect to the Property or the use, occupancy, enjoyment or operation of all or any portion thereof.

Upon the occurrence of any Event of Default, this shall constitute a direction to and full authority to each lessee under any lease and each guarantor of any lease to pay all Rents and Profits to Lender without proof of the default relied upon. Borrower hereby irrevocably authorizes each lessee and guarantor to rely upon and comply with any notice or demand by Lender for the payment to Lender of any Rents and Profits due or to become due. Whenever requested by Lender, Borrower shall furnish to Lender a certificate of Borrower setting forth the names of all lessees under all leases, the terms of their respective leases, the space occupied, the rents payable thereunder, the security deposit paid, and the dates through which any and all rents have been paid. Whenever requested by Lender, Borrower shall furnish a copy of all current leases to Lender.

Violation of Governmental Requirements. If Borrower suspects any tenant or other occupant of the Property is using the Property in a manner that is not in compliance with any Governmental Requirement to which Borrower, tenant, or any other occupant of the Mortgaged Property is subject, Borrower shall immediately take appropriate action to remedy the violation, and shall notify Lender of any potential violation within one (1) day of discovery of any such potential violation.

The failure of Borrower, any tenant, or any other occupant of the Property to comply with any Governmental Requirements in accordance with the lease section above and any potential violation by a tenant or other occupant of the Property of any Governmental Requirement is an Event of Default.

(b) **Application by Borrower of Rents and Profits.** Borrower shall apply the Rents and Profits to the payment of all necessary and reasonable operating costs and expenses of the Property, debt service on the indebtedness secured hereby, and a reasonable reserve for future expenses, repairs and replacements for the Property, before using the Rents and Profits for Borrower's personal use or any other purpose not for the direct benefit of the Property.

(c) **Attornment.** Each lease for any part of the Property shall make provision for the attornment of the lessee thereunder to any person succeeding to the interest of Borrower as the result of any foreclosure or transfer in lieu of foreclosure hereunder.

36. Security Agreement. This Deed of Trust is intended to be a security agreement pursuant to the California Uniform Commercial Code for:

(a) any and all items of personal property that are part of the Property which, under Applicable Law, may be subject to a security interest pursuant to the California Uniform Commercial Code and which are not in this Deed of Trust effectively made part of the real property, including, without limitation, Borrower's interest in all hotel furnishings, building materials, petroleum products including gasoline, gas station food and beverages, fixtures, equipment and machinery incorporated or to be incorporated into improvements constructed and to be constructed on the Property together with all interest of the Borrower in all personal property, appliances, equipment and cost of goods now or hereafter owned or possessed by Borrower located upon, in, or about or used in connection with the Property, including, without limitation, any and all personal property necessary for the operation and maintenance of any business located on the Property, together with all increases, substitutes, replacements, proceeds and products thereof and additions and accessions thereto, all rents, issues and profits due or to become due Borrower from or pertaining to said real property, Borrower's interest in any monies deposited by or on behalf of Borrower with any city, county, public body, utility or agency for the installation or as security for the installation of any utility pertaining to the Property, all rights to the use of any trade name, trademark or service mark now or hereafter associated with the business or businesses conducted on said premises (subject, however, to any franchise or license agreements relating thereto) together with all rights of Borrower under any policy or policies of insurance covering the foregoing property and all proceeds, loss payments and premium refunds which may be payable with respect to such insurance policies or any other insurance policies insuring said real or personal property and the proceeds of any involuntary disposition, including without limitation any tort judgment proceeds; and

(b) any and all items of property that are part of the Property which, under Applicable Law, constitute fixtures and may be subject to a security interest under California Uniform Commercial Code §§ 9334 and/or 9604. As used herein, "fixtures" includes but is not limited to carpeting, built-in appliances, drapery and drapery rods, landscaping, water tanks, plumbing, machinery, air conditioners, ducts, and the like.

Borrower hereby grants Lender a security interest in said property, all of which is referred to in this Deed of Trust as "Personal Property", and in all additions thereto, substitutions therefor and proceeds thereof, for the purpose of securing all indebtedness and other obligations of Borrower now or hereafter secured by this Deed of Trust, which shall be a paramount and superior lien on all such Personal Property at all times. Borrower agrees to execute and deliver financing and continuation statements covering the Personal Property from time to time and in such form as Lender may require to perfect and continue the perfection of Lender's lien or security interest with respect to the Personal Property. Borrower shall pay all costs of filing such statements and renewals and releases thereof and shall pay all reasonable costs and expenses of any record searches for financing statements Lender may reasonably require. Upon the occurrence of any default of Borrower hereunder, Lender shall have the rights and remedies of a secured party under the California Uniform Commercial Code, including, § 9604 thereof, as well as all other rights and remedies available at law or in equity.

Notwithstanding anything to the contrary contained in this paragraph, Borrower may from time to time replace items of Personal Property and fixtures constituting a part of the Property, provided that:

(1) the replacements for such items of Personal Property or fixtures are of equivalent value and quality;

(2) Borrower has good and clear title to such replacement property free and clear of any and all liens, encumbrances, security interests, ownership interests, claims of title (contingent or otherwise), or charges of any kind, or the rights of any conditional sellers, vendors or any third parties in or to such replacement property have been expressly subordinated at no cost to Lender to the lien of the Deed of Trust in a manner satisfactory to Lender; and

(3) at the option of Lender, Borrower provides at no cost to Lender a satisfactory opinion of counsel to the effect that the Deed of Trust constitutes a valid and subsisting first lien on and security interest in such replacement property and is not subject to being subordinated or the priority thereof affected under any applicable law, including, but not limited to, the provisions of California Commercial Code §§ 9334 and/or 9604.

37. Occupancy of Borrower. If this loan has been arranged as a non-owner occupied loan, Borrower shall not move into property without written permission by Lender. Should Borrower move into subject property without approval from Lender, this shall be deemed a default under the terms of the loan.

38. Use of Loan Funds. Lender has loaned funds according to the what Borrower has stated as funds are to be used. Should Lender discover that funds were not used for the exact reason given in the loan/underwriting documents, this shall be deemed a default under the terms of the loan.

39. Periodic Reports on the Status of any Business involved with regard to the making of this loan. If this loan has been made as a "Business Purpose Loan", Lender may request from Borrower an update as to the status of the business with which the funds

were to be used. Borrower will have 30 calendar days to give a written status to Lender from date Lender has requested said status. Lender to delineate what information is required as evidence of the status. Should Borrower not produce the written status within the given time period, this shall be deemed a default under the terms of the Loan.

40. Uncashed Checks. Should Lender or their agent issue a check to the borrower and it remains uncashed for more than 60 calendar days, a \$5.00 monthly fee from date of issue may be charged should borrower request a reissue on the check. Should Borrower request the check to be reissued, in addition to the fee just stated, a stop payment and re-issue fee in the amount of \$25.00 may be incurred and deducted from the funds.

41. Agency of Loan Servicer. The Loan Servicer or Lender under this Note may or may not have a proprietary program for forbearances, extensions or modifications. You would be advised during the course of the servicing of the loan. However, if the Loan Servicer inquires whether the Borrower would like, or should the Borrower request, an extension of the loan, forbearance, modification, etc., the Loan Servicer remains the sole agent of the Lender and is not the agent of the Borrower.

42. The Agreement is Binding. This Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns.

43. Usury. This Loan is exempt from usury as it has been made or arranged by a Licensed California Real Estate Broker.

44. Property Tax Verification. Lender may require Borrower to pay a one-time charge for a real estate tax service and/or reporting service used by Lender in connection with this Loan. This tax service may be ordered on each Assessor's Parcel Number secured by this loan. In addition to the fee to be paid to the service, the Loan Servicer may charge a fee to prepare the documentation to order the service. Fees shall be paid by the Borrower.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any rider(s) executed by Borrower and recorded with it.

BORROWERS:

[Signature]

11/12/2020

YINTAO YU, TRUSTEE OF THE 1047 CHERRY STREET TRUST, DATED JULY 28, 2017 / Date

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California}

County of San Mateo}

On NOV 12 2020

Lorraine Anne Robbins

before me, _____, NOTARY PUBLIC,

personally appeared YINTAO YU, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Lorraine Anne Robbins (Seal)

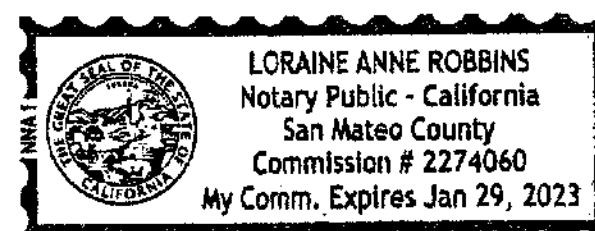


EXHIBIT "A"
Legal Description

For APN/Parcel ID(s): 046-126-210

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN CARLOS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

LOT 26 IN BLOCK 5, AS DESIGNATED ON MAP ENTITLED, "HARBOR ADDITION TO SAN CARLOS MAP NO. 4 SAN CARLOS CALIFORNIA", WHICH MAP WAS FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, ON MAY 6, 1927 IN BOOK 15 ON MAPS AT PAGE 60.

Exhibit “C”

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN MATEO

YOLANDA JIN,

Plaintiff,

v.

DOUGLAS SYKES; ENTRA DEFAULT
SOLUTIONS, LLC; and DOES 1-10,

Defendants.

Case No.: 22-CIV04149

Assigned for All Purposes to Hon. Danny Y. Chou

**ORDER DENYING PRELIMINARY
INJUNCTION**

FILED
SAN MATEO COUNTY

NOV 08 2022

Clerk of the Superior Court

By 
DEPUTY CLERK

On October 10, 2022, the Court granted pro per Plaintiff Yolanda Jin's Ex Parte Application for a Temporary Restraining Order (TRO). (Oct. 10, 2022 TRO and OSC.) The TRO enjoined Defendant Entra Default Solutions, LLC (Entra Default Solutions) "from proceeding with foreclosure and/or selling the Property commonly known as 1047 Cherry St., San Carlos, CA 94070 [(Property)] at trustee's sale." (*Id.* at pp. 1-2.) The Court also issued an order to show cause why a preliminary injunction should not be ordered (OSC) and scheduled the hearing on the OSC for October 20, 2022 at 2:00 p.m. Finally, the Court ordered that Jin serve Entra Default Solutions with the OSC and TRO "no later than" October 10, 2022 and file a proof of service "at least 5 court days prior to the hearing." (*Id.* at p. 2.) Later that same day, the Court continued the hearing on the OSC to October 27, 2022 at 2:00 p.m. and ordered that Jin serve the Court's Order "no later than October 14, 2022" and file a proof of service "at least five (5) court days before the hearing." (Oct. 10, 2022 Order.) Jin did not, however, file a proof of service as required by either Order. Defendant Douglas Sykes, however, filed opposition papers on October 12, 2022 as the real party-in-interest.

On October 27, 2022, counsel appeared on behalf of Jin for the first time. Sykes also appeared. The Court continued the hearing on the OSC to November 3, 2022 at 2:00 p.m. so Jin's newly retained counsel could file a complaint and respond to Sykes' opposition. The Court ordered Jin to file the

1 complaint and response on or by October 31, 2022. The Court also allowed Sykes to file a supplemental
2 opposition on November 2, 2022. At the hearing, Sykes appeared to agree to email service from Jin.

3 Jin filed a complaint alleging a single cause of action for declaratory relief. (Compl.) Meanwhile,
4 the supplemental opposition filed by Sykes on November 2, 2022 included new documentary evidence,
5 including a Certification of Trust executed by Yintao Yu on November 12, 2020.

6 On November 3, 2022, the Court conducted a hearing on the OSC. Sarah Shapero appeared on
7 behalf of Jin. Sykes appeared on behalf of himself. Nobody appeared on behalf of Entra Default
8 Solutions. At the hearing, Jin stated that she had a trust document that had not been previously submitted
9 to the Court. The Court gave Jin leave to file a supplemental response to the new materials included in
10 Sykes' November 2, 2022 supplemental opposition by noon on November 7, 2022. The Court further
11 stated that the matter would be deemed submitted as of November 7, 2022.

12 Jin timely filed a Declaration of Yolanda Jin in Support of Sur-Reply to Preliminary Injunction
13 (Surrepy Jin Decl.) on November 7, 2022. The Declaration attached a "Certification of Trust" signed by
14 Jin on March 3, 2021 and a "Certificate of Acknowledgment of Notary Public."

15 Having considered all papers filed in support of and in opposition to the OSC, oral arguments of
16 the parties, any testimony and evidence presented at the hearing, and all other pleadings and papers on
17 file herein, the Court DENIES the request for a preliminary injunction.

18 **FACTS**

19 In April 2016, a grant deed transferring title to the Property to Yintao Yu was recorded. (Nov. 2,
20 2022 Sykes Decl., ex. C.) In July 2017, a grant deed transferring title from Yu to "Yolanda Jin, Trustee
21 of the 1047 Cherry Street Trust, dated July 28, 2017" was recorded. (Oct. 31, 2022 Jin Decl., ex. A.) The
22 "Declaration of Trust" for the 1047 Cherry Street Trust (Trust) stated that Yu and Jin "shall be the
23 trustees." (Oct. 12, 2022 Sykes Decl., ex. C.) But Yu "shall be the primary trustee who has the power to
24 sign any documents solely (including but not limited to deeds, deeds of trust, leases) in order to exercise
25 the powers of the Trust." (*Ibid.*) Yu also had the power to "amend or revoke [the Trust] at any time,
26 without notifying any beneficiary or trustee." (*Ibid.*) Finally, Yu was the "sole beneficiary of" the Trust.
27 (*Ibid.*) By contrast, Jin "shall be the trustee who has the power to manage the property but does not
28 [have] the power to sign documents other than leases." (*Ibid.*) Her powers were limited to the "power to

1 manage trust property, including the power to lease or grant options to lease the property, and to make
2 repairs or alterations.” (*Ibid.*) Finally, the Declaration of Trust provided that “Title to Trust assets shall
3 be taken exactly as follows: ‘Yolanda Jin, Trustee of The 1047 Cherry Street Trust, dated July 18,
4 2027.’ ” (*Ibid.*)

5 In November 2020, an “Affidavit-Change of Trustee” (Affidavit) signed only by Yu was
6 recorded. The Affidavit replaced Jin with Yu as the trustee of the Trust. (Oct. 12, 2022 Sykes Decl., ex.
7 D.) Yu also executed a Certification of Trust, certifying that he was the trustee of the Trust and that he
8 had the power “sell, convey, and exchange” the Property. (Nov. 2, 2022 Sykes Decl., ex. G.) Later in
9 November 2020, Sykes made a secured loan in the amount of \$308,000 to Yu, as the trustee of the Trust.
10 The loan was secured by the Property. (*Id.*, ex. A.)

11 On March 3, 2021, Jin signed a “Certification of Trust” certifying that Jin was the only trustee of
12 the Trust with, among other things, the power to “sell, convey, exchange, and execute deeds” and “to
13 borrow money and encumber the trust property with a deed of trust or mortgage, and execute deeds of
14 trust.” (Surreply Jin Decl., ex. A.) Although the Certification of Trust attached to Jin’s Declaration
15 included a “Certificate of Acknowledgment of Notary Public” stating that Jin signed a document on
16 March 3, 2021, the Certificate did not identify the document purportedly signed by Jin. (See *ibid.*) Jin
17 also provided no explanation why she executed the Certification of Trust at that time. (See *ibid.*)

18 On June 15, 2022, Sykes posted, among other things, a “Notice of Default and Election to Sell
19 Under Deed of Trust” on the Property. (Nov. 12, 2022 Sykes Decl., ¶ 12 & ex. O.) In September 2022,
20 Jin learned about the “Notice of Trustee’s Sale” and discovered that she was removed as trustee in
21 November 2020. (Oct. 31, 2022 Jin Decl., ¶¶ 4-5.) On October 31, 2022, Jin recorded an “Affidavit
22 Change of Trustee” changing the trustee of the Trust from Yu to Jin. (*Id.*, ex. C.)

23 DISCUSSION

24 A. Request for Preliminary Injunction

25 On a motion for preliminary injunction, the Court evaluates two interrelated factors: (1) the
26 likelihood that the plaintiff will prevail on the merits of the claim at trial, and (2) the interim harm the
27 plaintiff would be likely to suffer if the injunction is denied as compared to the harm that the defendant
28 would be likely to suffer if the injunction is granted. (*Amgen Inc. v. Health Care Services* (2020) 47

1 Cal.App.5th 716, 731.) The weighing of these harms involves consideration of the inadequacy of other
2 remedies, the degree of irreparable harm, and the necessity of preserving the status quo. (*Donahue*
3 *Schriber Realty Group, Inc. v. Nu Creation Outreach* (2014) 232 Cal.App.4th 1171, 1177.) The general
4 purpose of an injunction is the preservation of the status quo until a final determination of the merits of
5 the action. (*Continental Baking Co. v. Katz* (1968) 68 Cal.2d 512, 528.) Upon evaluating the two
6 relevant factors, the Court denies Jin's request for a preliminary injunction.

7 First, the Court finds that Jin has not demonstrated a likelihood of prevailing on the merits. As a
8 preliminary matter, Jin arguably lacked standing to seek the TRO as a real-party-in-interest under Code
9 of Civil Procedure section 367, because she was no longer a trustee at the time she obtained the TRO.
10 (See Oct. 12, 2022 Sykes Decl., ex. D.) That Jin recorded an Affidavit reinstating her as the trustee on
11 October 31, 2022 does not change the fact that she had no standing to obtain the TRO in the first place.

12 In any event, the Declaration of Trust appears to establish that Yu, and not Jin, had the exclusive
13 power to amend the Trust or to sign any documents on behalf of the Trust. (See Oct. 12, 2022 Sykes
14 Decl., ex. C.) Indeed, the Declaration expressly states that Jin lacked "the power to sign documents other
15 than leases" and that *only* Yu had "the power to sign any documents solely (including but not limited to
16 deeds, deeds of trust, leases) in order to exercise the powers of the Trust." (*Ibid.*) Thus, Yu appeared to
17 properly exercise his powers under the Declaration of Trust to change the trustee from Jin to himself and
18 to execute a promissory note with Sykes secured by the Property in November 2020. Finally, Jin lacked
19 the power under the Declaration of Trust to reinstate herself as the trustee in October 2022. Jin never
20 challenged the Declaration of Trust and never provided an alternative version of the trust instrument.
21 Thus, Jin has not demonstrated that she has standing to pursue this action as the owner of the Property or
22 on any other basis.

23 The March 3, 2021 Certification of Trust signed by Jin does not compel a contrary conclusion.
24 Under the Declaration of Trust, Jin had no power to execute the Certification. (See Oct. 12, 2022 Sykes
25 Decl., ex. C.) And Jin provides no explanation how that Certification changed or superseded the
26 Declaration. The Court also finds that Jin's Certification of Trust has minimal persuasive value here
27 because Jin provides no explanation of the context for the Certification and because the Certificate of
28 Acknowledgment did not identify the document that Jin signed before the notary public.

1 Even if Jin has standing to bring this action, she still has not demonstrated a likelihood of
2 prevailing on the merits. Other than the 2017 Deed of Trust and self-serving documents that she
3 executed herself, Jin can point to no other documents supporting her claim that she was the owner of the
4 Property. By contrast, there is ample evidence, including the Declaration of Trust, Yu's Affidavit, and
5 Yu's Certification of Trust, that Yu was the sole trustee with the authority to execute a promissory note
6 with Sykes in November 2020. Jin contends those documents are fraudulent but she presents no
7 evidence to support her contention.

8 Finally, Jin does not address Sykes' contention that he is entitled to rely on Yu's Certification of
9 Trust under Probate Code section 18100. That section provides that: "With respect to a third person
10 dealing with a trustee or assisting a trustee in the conduct of a transaction, if the third person acts in
11 good faith and for a valuable consideration and without actual knowledge that the trustee is exceeding
12 the trustee's powers or improperly exercising them: [¶] (a) The third person is not bound to inquire
13 whether the trustee has power to act or is properly exercising a power and may assume without inquiry
14 the existence of a trust power and its proper exercise. [¶] (b) The third person is fully protected in
15 dealing with or assisting the trustee just as if the trustee has and is properly exercising the power the
16 trustee purports to exercise." Even if Yu's Certification is fraudulent as she contends, Jin has presented
17 no evidence that Sykes acted in bad faith or had knowledge that Yu was exceeding his powers under the
18 Trust. Thus, Jin has not demonstrated that she will likely prevail on the merits.

19 Second, Jin has not demonstrated that she will suffer irreparable harm absent injunctive relief.
20 Although California courts have, in some cases, recognized the unique nature of real property (see
21 *Jessen v. Keystone Savings & Loan Assn.* (1983) 142 Cal.App.3d 454, 458), Jin has provided no
22 evidence indicating that the Property is unique in any way. For example, Jin has provided no evidence
23 indicating that she lives on the Property; indeed, the Property appears to be unoccupied. (Nov. 2, 2022
24 Sykes Decl., exs. O & P) Thus, Jin has provided no compelling reason why a legal remedy, such as
25 damages, would be inadequate. On the other hand, in light of current market conditions and Sykes'
26 estimate that "the value of the property will decline by at least \$8,500 per month," any further delay of
27 the trustee's sale will likely impair Sykes's ability to recover the full balance of his loan from the
28

1 proceeds of the sale. (*Id.*, ¶ 23 & ex. S) Consequently, the balance of potential harms to the parties also
2 weighs in favor of denying a preliminary injunction.

3 **B. Service**

4 Although Entra Default Solutions is a named Defendant, Jin has never filed proof that she served
5 Entra Default Solutions with any of the relevant documents, including the summons and complaint. Jin's
6 request for a preliminary injunction against Entra Default Solutions is denied for this independent
7 reason.

8 As to Sykes, he appeared to agree to email service of Jin's complaint at the October 27, 2022
9 hearing. But the proof of service filed by Jin does not indicate that Sykes was served with the summons.
10 Arguably, Jin's request for a preliminary injunction against Sykes may be denied for this reason as well.

11 **ORDER**

12 Based on the foregoing, IT IS HEREBY ORDERED THAT:

- 13 1. Jin's request for a preliminary injunction is DENIED.
14 2. The Temporary Restraining Order issued on October 10, 2022 is hereby DISSOLVED.
15 3. Jin is ORDERED to serve the summons and complaint on all parties in accordance with
16 Code of Civil Procedure section 413.310, et seq. and file a proof of service.

17
18 Dated: Nov. 6, 2022

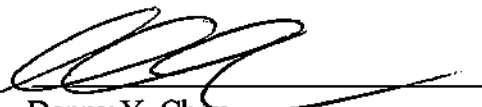
19 
20 Danny Y. Chou
21 Judge of the Superior Court
22
23
24
25
26
27
28

Exhibit “D”

Fill in this information to identify your case:

United States Bankruptcy Court for the:

Northern District of California

Case number (if known): _____ Chapter you are filing under:

- ☐ Chapter 7
☐ Chapter 11
☐ Chapter 12
☒ Chapter 13

FILED
NOV 15 2022
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

☐ Check if this is an amended filing

Official Form 101

Voluntary Petition for Individuals Filing for Bankruptcy

06/22

The bankruptcy forms use *you* and *Debtor 1* to refer to a debtor filing alone. A married couple may file a bankruptcy case together—called a *joint case*—and in joint cases, these forms use *you* to ask for information from both debtors. For example, if a form asks, "Do you own a car," the answer would be *yes* if either debtor owns a car. When information is needed about the spouses separately, the form uses *Debtor 1* and *Debtor 2* to distinguish between them. In joint cases, one of the spouses must report information as *Debtor 1* and the other as *Debtor 2*. The same person must be *Debtor 1* in all of the forms.

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write your name and case number (if known). Answer every question.

Part 1: Identify Yourself

	About Debtor 1:	About Debtor 2 (Spouse Only in a Joint Case):
1. Your full name Write the name that is on your government-issued picture identification (for example, your driver's license or passport). Bring your picture identification to your meeting with the trustee.	Yolanda First name Jin Middle name Jin Last name Suffix (Sr., Jr., II, III)	 First name Middle name Last name Suffix (Sr., Jr., II, III)
2. All other names you have used in the last 8 years Include your married or maiden names.	 First name Middle name Last name First name Middle name Last name	 First name Middle name Last name First name Middle name Last name
3. Only the last 4 digits of your Social Security number or federal Individual Taxpayer Identification number (ITIN)	XXX - XX - _____ OR 9 XX - XX - _____	XXX - XX - _____ OR 9 XX - XX - _____

About Debtor 1:

4. Any business names and Employer Identification Numbers (EIN) you have used in the last 8 years

Include trade names and doing business as names

☒ I have not used any business names or EINs.

Business name

Business name

EIN

EIN

About Debtor 2 (Spouse Only in a Joint Case):

☐ I have not used any business names or EINs.

Business name

Business name

EIN

EIN

5. Where you live

1047 Cherry St

Number Street

San Carlos

City

CA

State

94070

ZIP Code

San Mateo

County

If your mailing address is different from the one above, fill it in here. Note that the court will send any notices to you at this mailing address.

Number Street

P.O. Box

City

State

ZIP Code

If Debtor 2 lives at a different address:

Number Street

City

State

ZIP Code

County

If Debtor 2's mailing address is different from yours, fill it in here. Note that the court will send any notices to this mailing address.

Number Street

P.O. Box

City

State

ZIP Code

6. Why you are choosing this district to file for bankruptcy

Check one:

☒ Over the last 180 days before filing this petition, I have lived in this district longer than in any other district.

☐ I have another reason. Explain.
(See 28 U.S.C. § 1408.)

Check one:

☐ Over the last 180 days before filing this petition, I have lived in this district longer than in any other district.

☐ I have another reason. Explain.
(See 28 U.S.C. § 1408.)

Part 2: Tell the Court About Your Bankruptcy Case**7. The chapter of the Bankruptcy Code you are choosing to file under**

Check one. (For a brief description of each, see *Notice Required by 11 U.S.C. § 342(b) for Individuals Filing for Bankruptcy* (Form 2010)). Also, go to the top of page 1 and check the appropriate box.

- ☐ Chapter 7
- ☐ Chapter 11
- ☐ Chapter 12
- ☒ Chapter 13

8. How you will pay the fee

☐ I will pay the entire fee when I file my petition. Please check with the clerk's office in your local court for more details about how you may pay. Typically, if you are paying the fee yourself, you may pay with cash, cashier's check, or money order. If your attorney is submitting your payment on your behalf, your attorney may pay with a credit card or check with a pre-printed address.

☒ I need to pay the fee in installments. If you choose this option, sign and attach the *Application for Individuals to Pay The Filing Fee in Installments* (Official Form 103A).

☐ I request that my fee be waived (You may request this option only if you are filing for Chapter 7. By law, a judge may, but is not required to, waive your fee, and may do so only if your income is less than 150% of the official poverty line that applies to your family size and you are unable to pay the fee in installments). If you choose this option, you must fill out the *Application to Have the Chapter 7 Filing Fee Waived* (Official Form 103B) and file it with your petition.

9. Have you filed for bankruptcy within the last 8 years?

☒ No

☐ Yes. District _____ When _____ Case number _____
MM / DD / YYYY

District _____ When _____ Case number _____
MM / DD / YYYY

District _____ When _____ Case number _____
MM / DD / YYYY

10. Are any bankruptcy cases pending or being filed by a spouse who is not filing this case with you, or by a business partner, or by an affiliate?

☒ No

☐ Yes. Debtor _____ Relationship to you _____
District _____ When _____ Case number, if known _____
MM / DD / YYYY

Debtor _____ Relationship to you _____
District _____ When _____ Case number, if known _____
MM / DD / YYYY

11. Do you rent your residence?

☒ No. Go to line 12.

☐ Yes. Has your landlord obtained an eviction judgment against you?

☐ No. Go to line 12.

☐ Yes. Fill out *Initial Statement About an Eviction Judgment Against You* (Form 101A) and file it as part of this bankruptcy petition.

Part 3: Report About Any Businesses You Own as a Sole Proprietor**12. Are you a sole proprietor of any full- or part-time business?**☒ No. Go to Part 4.☐ Yes. Name and location of business

A sole proprietorship is a business you operate as an individual, and is not a separate legal entity such as a corporation, partnership, or LLC.

If you have more than one sole proprietorship, use a separate sheet and attach it to this petition.

Name of business, if any

Number Street

City

State

ZIP Code

Check the appropriate box to describe your business:

☐ Health Care Business (as defined in 11 U.S.C. § 101(27A))☐ Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))☐ Stockbroker (as defined in 11 U.S.C. § 101(53A))☐ Commodity Broker (as defined in 11 U.S.C. § 101(6))☐ None of the above**13. Are you filing under Chapter 11 of the Bankruptcy Code, and are you a small business debtor or a debtor as defined by 11 U.S.C. § 1182(1)?**

For a definition of *small business debtor*, see 11 U.S.C. § 101(51D).

If you are filing under Chapter 11, the court must know whether you are a small business debtor or a debtor choosing to proceed under Subchapter V so that it can set appropriate deadlines. If you indicate that you are a small business debtor or you are choosing to proceed under Subchapter V, you must attach your most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).

☒ No. I am not filing under Chapter 11.☐ No. I am filing under Chapter 11, but I am NOT a small business debtor according to the definition in the Bankruptcy Code.☐ Yes. I am filing under Chapter 11, I am a small business debtor according to the definition in the Bankruptcy Code, and I do not choose to proceed under Subchapter V of Chapter 11.☐ Yes. I am filing under Chapter 11, I am a debtor according to the definition in § 1182(1) of the Bankruptcy Code, and I choose to proceed under Subchapter V of Chapter 11.

Part 4:**Report if You Own or Have Any Hazardous Property or Any Property That Needs Immediate Attention**

14. Do you own or have any property that poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety? Or do you own any property that needs immediate attention?

☒ No☐ Yes. What is the hazard?

For example, do you own perishable goods, or livestock that must be fed, or a building that needs urgent repairs?

If immediate attention is needed, why is it needed?

Where is the property?

Number

Street

City

State

ZIP Code

Part 5: Explain Your Efforts to Receive a Briefing About Credit Counseling**15. Tell the court whether you have received a briefing about credit counseling.**

The law requires that you receive a briefing about credit counseling before you file for bankruptcy. You must truthfully check one of the following choices. If you cannot do so, you are not eligible to file.

If you file anyway, the court can dismiss your case, you will lose whatever filing fee you paid, and your creditors can begin collection activities again.

About Debtor 1:

You must check one:

- ☒ I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, and I received a certificate of completion.

Attach a copy of the certificate and the payment plan, if any, that you developed with the agency.

- ☐ I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, but I do not have a certificate of completion.

Within 14 days after you file this bankruptcy petition, you MUST file a copy of the certificate and payment plan, if any.

- ☐ I certify that I asked for credit counseling services from an approved agency, but was unable to obtain those services during the 7 days after I made my request, and exigent circumstances merit a 30-day temporary waiver of the requirement.

To ask for a 30-day temporary waiver of the requirement, attach a separate sheet explaining what efforts you made to obtain the briefing, why you were unable to obtain it before you filed for bankruptcy, and what exigent circumstances required you to file this case.

Your case may be dismissed if the court is dissatisfied with your reasons for not receiving a briefing before you filed for bankruptcy. If the court is satisfied with your reasons, you must still receive a briefing within 30 days after you file. You must file a certificate from the approved agency, along with a copy of the payment plan you developed, if any. If you do not do so, your case may be dismissed.

Any extension of the 30-day deadline is granted only for cause and is limited to a maximum of 15 days.

- ☐ I am not required to receive a briefing about credit counseling because of:

- ☐ **Incapacity.** I have a mental illness or a mental deficiency that makes me incapable of realizing or making rational decisions about finances.
- ☐ **Disability.** My physical disability causes me to be unable to participate in a briefing in person, by phone, or through the internet, even after I reasonably tried to do so.
- ☐ **Active duty.** I am currently on active military duty in a military combat zone.

If you believe you are not required to receive a briefing about credit counseling, you must file a motion for waiver of credit counseling with the court.

About Debtor 2 (Spouse Only In a Joint Case):

You must check one:

- ☐ I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, and I received a certificate of completion.

Attach a copy of the certificate and the payment plan, if any, that you developed with the agency.

- ☐ I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, but I do not have a certificate of completion.

Within 14 days after you file this bankruptcy petition, you MUST file a copy of the certificate and payment plan, if any.

- ☐ I certify that I asked for credit counseling services from an approved agency, but was unable to obtain those services during the 7 days after I made my request, and exigent circumstances merit a 30-day temporary waiver of the requirement.

To ask for a 30-day temporary waiver of the requirement, attach a separate sheet explaining what efforts you made to obtain the briefing, why you were unable to obtain it before you filed for bankruptcy, and what exigent circumstances required you to file this case.

Your case may be dismissed if the court is dissatisfied with your reasons for not receiving a briefing before you filed for bankruptcy. If the court is satisfied with your reasons, you must still receive a briefing within 30 days after you file. You must file a certificate from the approved agency, along with a copy of the payment plan you developed, if any. If you do not do so, your case may be dismissed.

Any extension of the 30-day deadline is granted only for cause and is limited to a maximum of 15 days.

- ☐ I am not required to receive a briefing about credit counseling because of:

- ☐ **Incapacity.** I have a mental illness or a mental deficiency that makes me incapable of realizing or making rational decisions about finances.
- ☐ **Disability.** My physical disability causes me to be unable to participate in a briefing in person, by phone, or through the internet, even after I reasonably tried to do so.
- ☐ **Active duty.** I am currently on active military duty in a military combat zone.

If you believe you are not required to receive a briefing about credit counseling, you must file a motion for waiver of credit counseling with the court.

Part 6: Answer These Questions for Reporting Purposes**16. What kind of debts do you have?****16a. Are your debts primarily consumer debts?** *Consumer debts* are defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose."

- ☐ No. Go to line 16b.
☒ Yes. Go to line 17.

16b. Are your debts primarily business debts? *Business debts* are debts that you incurred to obtain money for a business or investment or through the operation of the business or investment.

- ☐ No. Go to line 16c.
☐ Yes. Go to line 17.

16c. State the type of debts you owe that are not consumer debts or business debts.**17. Are you filing under Chapter 7?**☒ No. I am not filing under Chapter 7. Go to line 18.

Do you estimate that after any exempt property is excluded and administrative expenses are paid that funds will be available for distribution to unsecured creditors?

☐ Yes. I am filing under Chapter 7. Do you estimate that after any exempt property is excluded and administrative expenses are paid that funds will be available to distribute to unsecured creditors?

- ☐ No
☐ Yes

18. How many creditors do you estimate that you owe?

- ☒ 1-49
☐ 50-99
☐ 100-199
☐ 200-999

- ☐ 1,000-5,000
☐ 5,001-10,000
☐ 10,001-25,000

- ☐ 25,001-50,000
☐ 50,001-100,000
☐ More than 100,000

19. How much do you estimate your assets to be worth?

- ☐ \$0-\$50,000
☐ \$50,001-\$100,000
☒ \$100,001-\$500,000
☐ \$500,001-\$1 million

- ☐ \$1,000,001-\$10 million
☐ \$10,000,001-\$50 million
☐ \$50,000,001-\$100 million
☐ \$100,000,001-\$500 million

- ☐ \$500,000,001-\$1 billion
☐ \$1,000,000,001-\$10 billion
☐ \$10,000,000,001-\$50 billion
☐ More than \$50 billion

20. How much do you estimate your liabilities to be?

- ☐ \$0-\$50,000
☐ \$50,001-\$100,000
☒ \$100,001-\$500,000
☐ \$500,001-\$1 million

- ☐ \$1,000,001-\$10 million
☐ \$10,000,001-\$50 million
☐ \$50,000,001-\$100 million
☐ \$100,000,001-\$500 million

- ☐ \$500,000,001-\$1 billion
☐ \$1,000,000,001-\$10 billion
☐ \$10,000,000,001-\$50 billion
☐ More than \$50 billion

Part 7: Sign Below**For you**

I have examined this petition, and I declare under penalty of perjury that the information provided is true and correct.

If I have chosen to file under Chapter 7, I am aware that I may proceed, if eligible, under Chapter 7, 11, 12, or 13 of title 11, United States Code. I understand the relief available under each chapter, and I choose to proceed under Chapter 7.

If no attorney represents me and I did not pay or agree to pay someone who is not an attorney to help me fill out this document, I have obtained and read the notice required by 11 U.S.C. § 342(b).

I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.

I understand making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$250,000, or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

X

Yolanda

Signature of Debtor 1

Executed on 11/15/2022
MM / DD / YYYY

X

Signature of Debtor 2

Executed on
MM / DD / YYYY

Debtor 1

Yolanda

First Name

Middle Name

Jin

Last Name

Case number (if known) _____

For your attorney, if you are represented by one

If you are not represented by an attorney, you do not need to file this page.

I, the attorney for the debtor(s) named in this petition, declare that I have informed the debtor(s) about eligibility to proceed under Chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each chapter for which the person is eligible. I also certify that I have delivered to the debtor(s) the notice required by 11 U.S.C. § 342(b) and, in a case in which § 707(b)(4)(D) applies, certify that I have no knowledge after an inquiry that the information in the schedules filed with the petition is incorrect.

X

Signature of Attorney for Debtor _____

Date _____

MM / DD / YYYY

Printed name _____

Firm name _____

Number Street _____

City _____

State _____

ZIP Code _____

Contact phone _____

Email address _____

Bar number _____

State _____

For you if you are filing this bankruptcy without an attorney

If you are represented by an attorney, you do not need to file this page.

The law allows you, as an individual, to represent yourself in bankruptcy court, but you should understand that many people find it extremely difficult to represent themselves successfully. Because bankruptcy has long-term financial and legal consequences, you are strongly urged to hire a qualified attorney.

To be successful, you must correctly file and handle your bankruptcy case. The rules are very technical, and a mistake or inaction may affect your rights. For example, your case may be dismissed because you did not file a required document, pay a fee on time, attend a meeting or hearing, or cooperate with the court, case trustee, U.S. trustee, bankruptcy administrator, or audit firm if your case is selected for audit. If that happens, you could lose your right to file another case, or you may lose protections, including the benefit of the automatic stay.

You must list all your property and debts in the schedules that you are required to file with the court. Even if you plan to pay a particular debt outside of your bankruptcy, you must list that debt in your schedules. If you do not list a debt, the debt may not be discharged. If you do not list property or properly claim it as exempt, you may not be able to keep the property. The judge can also deny you a discharge of all your debts if you do something dishonest in your bankruptcy case, such as destroying or hiding property, falsifying records, or lying. Individual bankruptcy cases are randomly audited to determine if debtors have been accurate, truthful, and complete. **Bankruptcy fraud is a serious crime; you could be fined and imprisoned.**

If you decide to file without an attorney, the court expects you to follow the rules as if you had hired an attorney. The court will not treat you differently because you are filing for yourself. To be successful, you must be familiar with the United States Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the local rules of the court in which your case is filed. You must also be familiar with any state exemption laws that apply.

Are you aware that filing for bankruptcy is a serious action with long-term financial and legal consequences?

☐ No

☒ Yes

Are you aware that bankruptcy fraud is a serious crime and that if your bankruptcy forms are inaccurate or incomplete, you could be fined or imprisoned?

☐ No

☒ Yes

Did you pay or agree to pay someone who is not an attorney to help you fill out your bankruptcy forms?

☒ No

☐ Yes. Name of Person _____

Attach *Bankruptcy Petition Preparer's Notice, Declaration, and Signature* (Official Form 119).

By signing here, I acknowledge that I understand the risks involved in filing without an attorney. I have read and understood this notice, and I am aware that filing a bankruptcy case without an attorney may cause me to lose my rights or property if I do not properly handle the case.

X

Yolanda Jin

X

Signature of Debtor 1

Signature of Debtor 2

Date 11/15/2022
MM / DD / YYYY

Date _____
MM / DD / YYYY

Contact phone (650) 769-5988

Contact phone _____

Cell phone (650) 769-5988

Cell phone _____

Email address yolandajinsancarlos@gmail.com

Email address _____

Exhibit “E”

**UNITED STATES BANKRUPTCY COURT
California Northern Bankruptcy Court**

In	Yolanda Jin	Case No.: 22-30626 DM 13
Re:		
Debtor(s)		Chapter: 13

**ORDER AND NOTICE OF DISMISSAL
FOR FAILURE TO COMPLY**

Notice is hereby given that the debtor(s) failed to comply with this court's Order to File Required Documents and Notice of Automatic Dismissal , filed on 11/16/2022 . Therefore, it is ordered that this case be **dismissed**.

Dated: 12/2/22

By the Court:

Dennis Montali
United States Bankruptcy Judge

Exhibit “F”

Fill in this information to identify your case:

United States Bankruptcy Court for the:

Northern District of California

Case number (if known):

Chapter you are filing under:

- ☐ Chapter 7
☐ Chapter 11
☐ Chapter 12
☒ Chapter 13

FILED

DEC -2 2022

U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

☐ Check if this is an amended filing

Official Form 101

Voluntary Petition for Individuals Filing for Bankruptcy

06/22

The bankruptcy forms use *you* and *Debtor 1* to refer to a debtor filing alone. A married couple may file a bankruptcy case together—called a *joint case*—and in joint cases, these forms use *you* to ask for information from both debtors. For example, if a form asks, "Do you own a car," the answer would be yes if either debtor owns a car. When information is needed about the spouses separately, the form uses *Debtor 1* and *Debtor 2* to distinguish between them. In joint cases, one of the spouses must report information as *Debtor 1* and the other as *Debtor 2*. The same person must be *Debtor 1* in all of the forms.

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write your name and case number (if known). Answer every question.

Part 1: Identify Yourself

1. Your full name

Write the name that is on your government-issued picture identification (for example, your driver's license or passport).

Bring your picture identification to your meeting with the trustee.

About Debtor 1:

Yolanda

First name

Middle name

Jin

Last name

Suffix (Sr., Jr., II, III)

About Debtor 2 (Spouse Only in a Joint Case):

First name

Middle name

Last name

Suffix (Sr., Jr., II, III)

2. All other names you have used in the last 8 years

Include your married or maiden names.

First name

Middle name

Last name

First name

Middle name

Last name

First name

Middle name

Last name

First name

Middle name

Last name

3. Only the last 4 digits of your Social Security number or federal Individual Taxpayer Identification number (ITIN)

XXX - XX -

OR

9 XX - XX -

XXX - XX -

OR

9 XX - XX -

4. Any business names and Employer Identification Numbers (EIN) you have used in the last 8 years

Include trade names and doing business as names

☒ I have not used any business names or EINs.

Business name

Business name

EIN

EIN

☐ I have not used any business names or EINs.

Business name

Business name

EIN

EIN

5. Where you live

1047 Cherry St

NumberStreet

San CarlosCA94070

CityStateZIP Code

San Mateo

County

If your mailing address is different from the one above, fill it in here. Note that the court will send any notices to you at this mailing address.

NumberStreet

P.O. Box

CityStateZIP Code

NumberStreet

CityStateZIP Code

County

If Debtor 2's mailing address is different from yours, fill it in here. Note that the court will send any notices to this mailing address.

NumberStreet

P.O. Box

CityStateZIP Code

6. Why you are choosing this district to file for bankruptcy

Check one:

☒ Over the last 180 days before filing this petition, I have lived in this district longer than in any other district.

☐ I have another reason. Explain. (See 28 U.S.C. § 1408.)

☐ Over the last 180 days before filing this petition, I have lived in this district longer than in any other district.

☐ I have another reason. Explain. (See 28 U.S.C. § 1408.)

Official Form 101

Voluntary Petition for Individuals Filing for Bankruptcy

page 2

Case: 22-30663 Doc# 119-File Filed 02/22/22 Entered 02/22/22 03:48:25 Page 4 of 149

Part 2: Tell the Court About Your Bankruptcy Case**7. The chapter of the Bankruptcy Code you are choosing to file under**

Check one. (For a brief description of each, see *Notice Required by 11 U.S.C. § 342(b) for Individuals Filing for Bankruptcy* (Form 2010)). Also, go to the top of page 1 and check the appropriate box.

- ☐ Chapter 7
- ☐ Chapter 11
- ☐ Chapter 12
- ☒ Chapter 13

8. How you will pay the fee

☐ I will pay the entire fee when I file my petition. Please check with the clerk's office in your local court for more details about how you may pay. Typically, if you are paying the fee yourself, you may pay with cash, cashier's check, or money order. If your attorney is submitting your payment on your behalf, your attorney may pay with a credit card or check with a pre-printed address.

☒ I need to pay the fee in installments. If you choose this option, sign and attach the *Application for Individuals to Pay The Filing Fee in Installments* (Official Form 103A).

☐ I request that my fee be waived (You may request this option only if you are filing for Chapter 7. By law, a judge may, but is not required to, waive your fee, and may do so only if your income is less than 150% of the official poverty line that applies to your family size and you are unable to pay the fee in installments). If you choose this option, you must fill out the *Application to Have the Chapter 7 Filing Fee Waived* (Official Form 103B) and file it with your petition.

9. Have you filed for bankruptcy within the last 8 years?

☐ No

☒ Yes. District Northern California When 11/15/2022 Case number 22-30626
MM / DD / YYYY

District _____ When _____ Case number _____
MM / DD / YYYY

District _____ When _____ Case number _____
MM / DD / YYYY

10. Are any bankruptcy cases pending or being filed by a spouse who is not filing this case with you, or by a business partner, or by an affiliate?

☒ No

☐ Yes. Debtor _____ Relationship to you _____
District _____ When _____ Case number, if known _____
MM / DD / YYYY

Debtor _____ Relationship to you _____
District _____ When _____ Case number, if known _____
MM / DD / YYYY

11. Do you rent your residence?

☒ No. Go to line 12.

☐ Yes. Has your landlord obtained an eviction judgment against you?

☐ No. Go to line 12.

☐ Yes. Fill out *Initial Statement About an Eviction Judgment Against You* (Form 101A) and file it as part of this bankruptcy petition.

Part 3: Report About Any Businesses You Own as a Sole Proprietor**12. Are you a sole proprietor of any full- or part-time business?**

A sole proprietorship is a business you operate as an individual, and is not a separate legal entity such as a corporation, partnership, or LLC.

If you have more than one sole proprietorship, use a separate sheet and attach it to this petition.

☒ No. Go to Part 4.☐ Yes. Name and location of business

Name of business, if any

Number Street

City

State

ZIP Code

Check the appropriate box to describe your business:

☐ Health Care Business (as defined in 11 U.S.C. § 101(27A))☐ Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))☐ Stockbroker (as defined in 11 U.S.C. § 101(53A))☐ Commodity Broker (as defined in 11 U.S.C. § 101(6))☐ None of the above**13. Are you filing under Chapter 11 of the Bankruptcy Code, and are you a small business debtor or a debtor as defined by 11 U.S.C. § 1182(1)?**

For a definition of *small business debtor*, see 11 U.S.C. § 101(51D).

If you are filing under Chapter 11, the court must know whether you are a small business debtor or a debtor choosing to proceed under Subchapter V so that it can set appropriate deadlines. If you indicate that you are a small business debtor or you are choosing to proceed under Subchapter V, you must attach your most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).

☒ No. I am not filing under Chapter 11.☐ No. I am filing under Chapter 11, but I am NOT a small business debtor according to the definition in the Bankruptcy Code.☐ Yes. I am filing under Chapter 11, I am a small business debtor according to the definition in the Bankruptcy Code, and I do not choose to proceed under Subchapter V of Chapter 11.☐ Yes. I am filing under Chapter 11, I am a debtor according to the definition in § 1182(1) of the Bankruptcy Code, and I choose to proceed under Subchapter V of Chapter 11.

Part 4:**Report if You Own or Have Any Hazardous Property or Any Property That Needs Immediate Attention**

14. Do you own or have any property that poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety? Or do you own any property that needs immediate attention?

☒ No☐ Yes. What is the hazard?

If immediate attention is needed, why is it needed?

For example, do you own perishable goods, or livestock that must be fed, or a building that needs urgent repairs?

Where is the property?

Number

Street

City

State

ZIP Code

Part 5: Explain Your Efforts to Receive a Briefing About Credit Counseling**15. Tell the court whether you have received a briefing about credit counseling.**

The law requires that you receive a briefing about credit counseling before you file for bankruptcy. You must truthfully check one of the following choices. If you cannot do so, you are not eligible to file.

If you file anyway, the court can dismiss your case, you will lose whatever filing fee you paid, and your creditors can begin collection activities again.

About Debtor 1:

You must check one:

- ☒ I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, and I received a certificate of completion.

Attach a copy of the certificate and the payment plan, if any, that you developed with the agency.

- ☐ I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, but I do not have a certificate of completion.

Within 14 days after you file this bankruptcy petition, you MUST file a copy of the certificate and payment plan, if any.

- ☐ I certify that I asked for credit counseling services from an approved agency, but was unable to obtain those services during the 7 days after I made my request, and exigent circumstances merit a 30-day temporary waiver of the requirement.

To ask for a 30-day temporary waiver of the requirement, attach a separate sheet explaining what efforts you made to obtain the briefing, why you were unable to obtain it before you filed for bankruptcy, and what exigent circumstances required you to file this case.

Your case may be dismissed if the court is dissatisfied with your reasons for not receiving a briefing before you filed for bankruptcy.

If the court is satisfied with your reasons, you must still receive a briefing within 30 days after you file. You must file a certificate from the approved agency, along with a copy of the payment plan you developed, if any. If you do not do so, your case may be dismissed.

Any extension of the 30-day deadline is granted only for cause and is limited to a maximum of 15 days.

- ☐ I am not required to receive a briefing about credit counseling because of:

- ☐ **Incapacity.** I have a mental illness or a mental deficiency that makes me incapable of realizing or making rational decisions about finances.

- ☐ **Disability.** My physical disability causes me to be unable to participate in a briefing in person, by phone, or through the Internet, even after I reasonably tried to do so.

- ☐ **Active duty.** I am currently on active military duty in a military combat zone.

If you believe you are not required to receive a briefing about credit counseling, you must file a motion for waiver of credit counseling with the court.

About Debtor 2 (Spouse Only in a Joint Case):

You must check one:

- ☐ I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, and I received a certificate of completion.

Attach a copy of the certificate and the payment plan, if any, that you developed with the agency.

- ☐ I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, but I do not have a certificate of completion.

Within 14 days after you file this bankruptcy petition, you MUST file a copy of the certificate and payment plan, if any.

- ☐ I certify that I asked for credit counseling services from an approved agency, but was unable to obtain those services during the 7 days after I made my request, and exigent circumstances merit a 30-day temporary waiver of the requirement.

To ask for a 30-day temporary waiver of the requirement, attach a separate sheet explaining what efforts you made to obtain the briefing, why you were unable to obtain it before you filed for bankruptcy, and what exigent circumstances required you to file this case.

Your case may be dismissed if the court is dissatisfied with your reasons for not receiving a briefing before you filed for bankruptcy.

If the court is satisfied with your reasons, you must still receive a briefing within 30 days after you file. You must file a certificate from the approved agency, along with a copy of the payment plan you developed, if any. If you do not do so, your case may be dismissed.

Any extension of the 30-day deadline is granted only for cause and is limited to a maximum of 15 days.

- ☐ I am not required to receive a briefing about credit counseling because of:

- ☐ **Incapacity.** I have a mental illness or a mental deficiency that makes me incapable of realizing or making rational decisions about finances.

- ☐ **Disability.** My physical disability causes me to be unable to participate in a briefing in person, by phone, or through the Internet, even after I reasonably tried to do so.

- ☐ **Active duty.** I am currently on active military duty in a military combat zone.

If you believe you are not required to receive a briefing about credit counseling, you must file a motion for waiver of credit counseling with the court.

Part 6: Answer These Questions for Reporting Purposes**16. What kind of debts do you have?****16a. Are your debts primarily consumer debts?** *Consumer debts* are defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose."

- ☐ No. Go to line 16b.
☒ Yes. Go to line 17.

16b. Are your debts primarily business debts? *Business debts* are debts that you incurred to obtain money for a business or investment or through the operation of the business or investment.

- ☐ No. Go to line 16c.
☐ Yes. Go to line 17.

16c. State the type of debts you owe that are not consumer debts or business debts.**17. Are you filing under Chapter 7?**☒ No. I am not filing under Chapter 7. Go to line 18.

Do you estimate that after any exempt property is excluded and administrative expenses are paid that funds will be available for distribution to unsecured creditors?

☐ Yes. I am filing under Chapter 7. Do you estimate that after any exempt property is excluded and administrative expenses are paid that funds will be available to distribute to unsecured creditors?

- ☐ No
☐ Yes

18. How many creditors do you estimate that you owe?

- ☒ 1-49
☐ 50-99
☐ 100-199
☐ 200-999

- ☐ 1,000-5,000
☐ 5,001-10,000
☐ 10,001-25,000

- ☐ 25,001-50,000
☐ 50,001-100,000
☐ More than 100,000

19. How much do you estimate your assets to be worth?

- ☐ \$0-\$50,000
☐ \$50,001-\$100,000
☒ \$100,001-\$500,000
☐ \$500,001-\$1 million

- ☐ \$1,000,001-\$10 million
☐ \$10,000,001-\$50 million
☐ \$50,000,001-\$100 million
☐ \$100,000,001-\$500 million

- ☐ \$500,000,001-\$1 billion
☐ \$1,000,000,001-\$10 billion
☐ \$10,000,000,001-\$50 billion
☐ More than \$50 billion

20. How much do you estimate your liabilities to be?

- ☐ \$0-\$50,000
☐ \$50,001-\$100,000
☒ \$100,001-\$500,000
☐ \$500,001-\$1 million

- ☐ \$1,000,001-\$10 million
☐ \$10,000,001-\$50 million
☐ \$50,000,001-\$100 million
☐ \$100,000,001-\$500 million

- ☐ \$500,000,001-\$1 billion
☐ \$1,000,000,001-\$10 billion
☐ \$10,000,000,001-\$50 billion
☐ More than \$50 billion

Part 7: Sign Below**For you**

I have examined this petition, and I declare under penalty of perjury that the information provided is true and correct.

If I have chosen to file under Chapter 7, I am aware that I may proceed, if eligible, under Chapter 7, 11, 12, or 13 of title 11, United States Code. I understand the relief available under each chapter, and I choose to proceed under Chapter 7.

If no attorney represents me and I did not pay or agree to pay someone who is not an attorney to help me fill out this document, I have obtained and read the notice required by 11 U.S.C. § 342(b).

I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.

I understand making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$250,000, or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

X

Yolanda

Signature of Debtor 1

Executed on 12/02/2022

MM / DD / YYYY

X

Signature of Debtor 2

Executed on

MM / DD / YYYY

Debtor 1

Yolanda

Jin

First Name Middle Name

Last Name

Case number (if known)

For your attorney, if you are represented by one

If you are not represented by an attorney, you do not need to file this page.

I, the attorney for the debtor(s) named in this petition, declare that I have informed the debtor(s) about eligibility to proceed under Chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each chapter for which the person is eligible. I also certify that I have delivered to the debtor(s) the notice required by 11 U.S.C. § 342(b) and, in a case in which § 707(b)(4)(D) applies, certify that I have no knowledge after an inquiry that the information in the schedules filed with the petition is incorrect.

X

Signature of Attorney for Debtor

Date

MM / DD / YYYY

Printed name

Firm name

Number Street

City

State

ZIP Code

Contact phone

Email address

Bar number

State

For you if you are filing this bankruptcy without an attorney

If you are represented by an attorney, you do not need to file this page.

The law allows you, as an individual, to represent yourself in bankruptcy court, but you should understand that many people find it extremely difficult to represent themselves successfully. Because bankruptcy has long-term financial and legal consequences, you are strongly urged to hire a qualified attorney.

To be successful, you must correctly file and handle your bankruptcy case. The rules are very technical, and a mistake or inaction may affect your rights. For example, your case may be dismissed because you did not file a required document, pay a fee on time, attend a meeting or hearing, or cooperate with the court, case trustee, U.S. trustee, bankruptcy administrator, or audit firm if your case is selected for audit. If that happens, you could lose your right to file another case, or you may lose protections, including the benefit of the automatic stay.

You must list all your property and debts in the schedules that you are required to file with the court. Even if you plan to pay a particular debt outside of your bankruptcy, you must list that debt in your schedules. If you do not list a debt, the debt may not be discharged. If you do not list property or properly claim it as exempt, you may not be able to keep the property. The judge can also deny you a discharge of all your debts if you do something dishonest in your bankruptcy case, such as destroying or hiding property, falsifying records, or lying. Individual bankruptcy cases are randomly audited to determine if debtors have been accurate, truthful, and complete. **Bankruptcy fraud is a serious crime; you could be fined and imprisoned.**

If you decide to file without an attorney, the court expects you to follow the rules as if you had hired an attorney. The court will not treat you differently because you are filing for yourself. To be successful, you must be familiar with the United States Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the local rules of the court in which your case is filed. You must also be familiar with any state exemption laws that apply.

Are you aware that filing for bankruptcy is a serious action with long-term financial and legal consequences?

☐ No

☒ Yes

Are you aware that bankruptcy fraud is a serious crime and that if your bankruptcy forms are inaccurate or incomplete, you could be fined or imprisoned?

☐ No

☒ Yes

Did you pay or agree to pay someone who is not an attorney to help you fill out your bankruptcy forms?

☒ No

☐ Yes. Name of Person _____

Attach Bankruptcy Petition Preparer's Notice, Declaration, and Signature (Official Form 119).

By signing here, I acknowledge that I understand the risks involved in filing without an attorney. I have read and understood this notice, and I am aware that filing a bankruptcy case without an attorney may cause me to lose my rights or property if I do not properly handle the case.

X

Signature of Debtor 1

Date 12/02/2022
MM / DD / YYYY

Contact phone (650) 769-5988

Cell phone (650) 769-5988

Email address yolandajinsancarlos@gmail.com

X

Signature of Debtor 2

Date _____
MM / DD / YYYY

Contact phone _____

Cell phone _____

Email address _____

BANKRUPTCY COURT

2022 DEC -2 P 5:20

NAME: YOLANDA JIN

Phone: 650-769-5988

Email: YOLANDAJIN@GMAIL.COM

CASE NUMBER: NEW CASE NUMBER TO BE ASSIGNED

DEAR BANKRUPTCY COURT CLERK:

Notes:

- ① I am applying an ITIN (Tax Payer Identification Number) and it's still pending.
I should obtain my ITIN by the meeting with the bankruptcy trustee.
- ② An earlier case (22-30626) was filed, and I'm filing into that case today (12/02/2022) with additional documents/schedules, but only to find that case was just dismissed earlier today (12/02/2022).
So, I have to file a new case to stay protected against an imminent sale/foreclosure, and get a new case number. (A person can file twice in a calendar year)
- ③ Payment installments requested.

Thank You!

Exhibit “G”

**UNITED STATES BANKRUPTCY COURT
California Northern Bankruptcy Court**

In	Yolanda Jin	Case No.: 22-30660 DM 13
Re:		
Debtor(s)		Chapter: 13

**ORDER AND NOTICE OF DISMISSAL
FOR FAILURE TO COMPLY**

Notice is hereby given that the debtor(s) failed to comply with this court's Order for Payments of Fees In Installments , filed on 12/5/2022 . Therefore, it is ordered that this case be **dismissed**.

Dated: 1/5/23

By the Court:

Dennis Montali
United States Bankruptcy Judge

Notice Recipients

District/Off: 0971-3

User: admin

Date Created: 1/5/2023

Case: 22-30660

Form ID: NDC

Total: 10

Recipients submitted to the BNC (Bankruptcy Noticing Center) without an address:

cr Douglas Sykes

TOTAL: 1

Recipients of Notice of Electronic Filing:

ust Office of the U.S. Trustee / SF USTPRegion17.SF.ECF@usdoj.gov
tr David Burchard TESTECF@burchardtrustee.com
aty Reilly Wilkinson rwilkinson@scheerlawgroup.com

TOTAL: 3

Recipients submitted to the BNC (Bankruptcy Noticing Center):

db Yolanda Jin 1047 Cherry St. San Carlos, CA 94070
smg Chief Tax Collection Section Employment Development Section P.O. Box 826203 Sacramento, CA
94230
smg CA Employment Development Dept. Bankruptcy Group MIC 92E P.O. Box 826880 Sacramento,
CA 94280-0001
smg CA Franchise Tax Board Special Procedures Bankruptcy Unit P.O. Box 2952 Sacramento, CA
95812-2952
15455042 AT&T P.O. Box 10330 Fort Wayne, IN 46851
15455041 Edward Hughes 3960 W. Point Loma Blvd. San Diego, CA 92110

TOTAL: 6

Exhibit “H”

JAN 09 2023

Clerk of the Superior Court

By  (DEPUTY CLERK)

1 Y. Roger Yu
2 1047 Cherry Street,
3 San Carlos, CA 94070

4 Plaintiff in Pro Per

5
6 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
7 **SAN MATEO COUNTY**

8 Y. Roger Yu, trustee of The 1047
9 Cherry Street Trust,

10 Plaintiff,

11 v.

12 Dougals Sykes, an individual, and Does
13 1-50, inclusive,

14 Defendants.

Case No.:

23 CIV 000088

~~PROPOSED~~ ORDER

15
16
17
18
19 The application for a Temporary Restraining Order came on before the undersigned on
20 January 9th, 2023 in Department 21 of the above-captioned court.

21 Based on the Application, Points and Authorities, and supporting declarations in the
22 moving papers, and good cause having been shown, the Court finds as follows:

23 **ORDER TO SHOW CAUSE**

24 TO DEFENDANTS AND THEIR COUNSEL OF RECORD, You are ordered to appear
25 on Feb 17, 2023 at 10 ~~am~~ pm in Dept 21 of this Court located at 400 County
26 Center Redwood
27 City, CA

_____, to show cause as to why a preliminary injunction should not be issued enjoining the sale of the property located at 1047 Cherry Street, San Carlos, CA 94070.

This Order to Show Cause and supporting papers shall be ^{personally} served on Defendant no later than Jan 10, 2023 by facsimile (or _____). Proof of such service shall be filed and delivered to the Court by no later than Jan 20, 2023. Any Opposition papers by Defendant shall be filed and served on Plaintiff by no later than Jan 26 by 4pm. Any Reply by Plaintiff shall be filed and served by no later than Feb 1. ~~Email or facsimile service of these documents is permitted.~~

IT IS SO ORDERED.

Dated: 1/9/2023


Honorable Superior Court Judge
ROBERT D. FOILES

TEMPORARY RESTRAINING ORDER

Pending hearing on the below Order to Show Cause, Defendants, their employees, agents and/or any other person or entity acting with them or on their behalf are restrained and enjoined from the sale of the property located at 1047 Cherry Street, San Carlos, CA 94070.

IT IS SO ORDERED.

Dated: 1/9/2023


Honorable Superior Court Judge
ROBERT D. FOILES

Exhibit “I”

Fill in this information to identify your case:

United States Bankruptcy Court for the:

Northern District of California

Case number (if known):

Chapter you are filing under:

- ☐ Chapter 7
☐ Chapter 11
☐ Chapter 12
☒ Chapter 13

FILED
JAN 11 2023
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

☐ Check if this is an amended filing

Official Form 101

Voluntary Petition for Individuals Filing for Bankruptcy

12/22

The bankruptcy forms use *you* and *Debtor 1* to refer to a debtor filing alone. A married couple may file a bankruptcy case together—called a *joint case*—and in joint cases, these forms use *you* to ask for information from both debtors. For example, if a form asks, “Do you own a car,” the answer would be yes if either debtor owns a car. When information is needed about the spouses separately, the form uses *Debtor 1* and *Debtor 2* to distinguish between them. In joint cases, one of the spouses must report information as *Debtor 1* and the other as *Debtor 2*. The same person must be *Debtor 1* in all of the forms.

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write your name and case number (if known). Answer every question.

Part 1: Identify Yourself

1. Your full name

Write the name that is on your government-issued picture identification (for example, your driver's license or passport).

Bring your picture identification to your meeting with the trustee.

About Debtor 1:

Y. Roger

First name

Middle name

Yu

Last name

Suffix (Sr., Jr., II, III)

About Debtor 2 (Spouse Only in a Joint Case):

First name

Middle name

Last name

Suffix (Sr., Jr., II, III)

2. All other names you have used in the last 8 years

Include your married or maiden names and any assumed, trade names and *doing business as* names.

Do NOT list the name of any separate legal entity such as a corporation, partnership, or LLC that is not filing this petition.

First name

Middle name

Last name

First name

Middle name

Last name

Business name (if applicable)

Business name (if applicable)

First name

Middle name

Last name

First name

Middle name

Last name

Business name (if applicable)

Business name (if applicable)

3. Only the last 4 digits of your Social Security number or federal Individual Taxpayer Identification number (ITIN)

XXX - XX - 5 2 6 4

OR

9 XX - XX -

XXX - XX -

OR

9 XX - XX -

Debtor 1

Y. Roger

Yu

First Name

Middle Name

Last Name

Case number (if known)

About Debtor 1:

4. Your Employer Identification Number (EIN), if any.

EIN

EIN

About Debtor 2 (Spouse Only in a Joint Case):

EIN

EIN

5. Where you live

115 College Ave

Number Street

Mountain View

CA

94040

City

State

ZIP Code

Santa Clara

County

If your mailing address is different from the one above, fill it in here. Note that the court will send any notices to you at this mailing address.

Number Street

P.O. Box

City

State

ZIP Code

If Debtor 2 lives at a different address:

Number Street

City

State

ZIP Code

County

If Debtor 2's mailing address is different from yours, fill it in here. Note that the court will send any notices to this mailing address.

Number Street

P.O. Box

City

State

ZIP Code

6. Why you are choosing this district to file for bankruptcy

Check one:

☒ Over the last 180 days before filing this petition, I have lived in this district longer than in any other district.

☐ I have another reason. Explain.
(See 28 U.S.C. § 1408.)

Check one:

☐ Over the last 180 days before filing this petition, I have lived in this district longer than in any other district.

☐ I have another reason. Explain.
(See 28 U.S.C. § 1408.)

Debtor 1

Y. Roger

First Name Middle Name

Yu

Last Name

Case number (if known)

Part 2: Tell the Court About Your Bankruptcy Case**7. The chapter of the Bankruptcy Code you are choosing to file under**

Check one. (For a brief description of each, see *Notice Required by 11 U.S.C. § 342(b) for Individuals Filing for Bankruptcy* (Form 2010)). Also, go to the top of page 1 and check the appropriate box.

- ☐ Chapter 7
- ☐ Chapter 11
- ☐ Chapter 12
- ☒ Chapter 13

8. How you will pay the fee

☐ I will pay the entire fee when I file my petition. Please check with the clerk's office in your local court for more details about how you may pay. Typically, if you are paying the fee yourself, you may pay with cash, cashier's check, or money order. If your attorney is submitting your payment on your behalf, your attorney may pay with a credit card or check with a pre-printed address.

☒ I need to pay the fee in installments. If you choose this option, sign and attach the *Application for Individuals to Pay The Filing Fee in Installments* (Official Form 103A).

☐ I request that my fee be waived (You may request this option only if you are filing for Chapter 7. By law, a judge may, but is not required to, waive your fee, and may do so only if your income is less than 150% of the official poverty line that applies to your family size and you are unable to pay the fee in installments). If you choose this option, you must fill out the *Application to Have the Chapter 7 Filing Fee Waived* (Official Form 103B) and file it with your petition.

9. Have you filed for bankruptcy within the last 8 years?

☒ No

☐ Yes. District _____ When _____ Case number _____
MM / DD / YYYY

District _____ When _____ Case number _____
MM / DD / YYYY

District _____ When _____ Case number _____
MM / DD / YYYY

10. Are any bankruptcy cases pending or being filed by a spouse who is not filing this case with you, or by a business partner, or by an affiliate?

☒ No

☐ Yes. Debtor _____ Relationship to you _____
District _____ When _____ Case number, if known _____
MM / DD / YYYY

Debtor _____ Relationship to you _____
District _____ When _____ Case number, if known _____
MM / DD / YYYY

11. Do you rent your residence?

☒ No. Go to line 12.

☐ Yes. Has your landlord obtained an eviction judgment against you?

☐ No. Go to line 12.

☐ Yes. Fill out *Initial Statement About an Eviction Judgment Against You* (Form 101A) and file it as part of this bankruptcy petition.

Part 3: Report About Any Businesses You Own as a Sole Proprietor**12. Are you a sole proprietor of any full- or part-time business?**

A sole proprietorship is a business you operate as an individual, and is not a separate legal entity such as a corporation, partnership, or LLC.

If you have more than one sole proprietorship, use a separate sheet and attach it to this petition.

☒ No. Go to Part 4.

☐ Yes. Name and location of business

Name of business, if any

Number Street

City

State

ZIP Code

Check the appropriate box to describe your business:

- ☐ Health Care Business (as defined in 11 U.S.C. § 101(27A))
- ☐ Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- ☐ Stockbroker (as defined in 11 U.S.C. § 101(53A))
- ☐ Commodity Broker (as defined in 11 U.S.C. § 101(6))
- ☐ None of the above

13. Are you filing under Chapter 11 of the Bankruptcy Code, and are you a small business debtor or a debtor as defined by 11 U.S.C. § 1182(1)?

For a definition of *small business debtor*, see 11 U.S.C. § 101(51D).

If you are filing under Chapter 11, the court must know whether you are a small business debtor or a debtor choosing to proceed under Subchapter V so that it can set appropriate deadlines. If you indicate that you are a small business debtor or you are choosing to proceed under Subchapter V, you must attach your most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).

☒ No. I am not filing under Chapter 11.

☐ No. I am filing under Chapter 11, but I am NOT a small business debtor according to the definition in the Bankruptcy Code.

☐ Yes. I am filing under Chapter 11, I am a small business debtor according to the definition in the Bankruptcy Code, and I do not choose to proceed under Subchapter V of Chapter 11.

☐ Yes. I am filing under Chapter 11, I am a debtor according to the definition in § 1182(1) of the Bankruptcy Code, and I choose to proceed under Subchapter V of Chapter 11.

Debtor 1

Y. Roger

First Name Middle Name

Yu

Last Name

Case number (if known)

Part 4: Report if You Own or Have Any Hazardous Property or Any Property That Needs Immediate Attention

14. Do you own or have any property that poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety? Or do you own any property that needs immediate attention?

For example, do you own perishable goods, or livestock that must be fed, or a building that needs urgent repairs?

☒ No

☐ Yes. What is the hazard?

If immediate attention is needed, why is it needed?

Where is the property?

Number Street

City

State

ZIP Code

Part 5: Explain Your Efforts to Receive a Briefing About Credit Counseling**15. Tell the court whether you have received a briefing about credit counseling.**

The law requires that you receive a briefing about credit counseling before you file for bankruptcy. You must truthfully check one of the following choices. If you cannot do so, you are not eligible to file.

If you file anyway, the court can dismiss your case, you will lose whatever filing fee you paid, and your creditors can begin collection activities again.

About Debtor 1:

You must check one:

- ☒ I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, and I received a certificate of completion.

Attach a copy of the certificate and the payment plan, if any, that you developed with the agency.

- ☐ I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, but I do not have a certificate of completion.

Within 14 days after you file this bankruptcy petition, you MUST file a copy of the certificate and payment plan, if any.

- ☐ I certify that I asked for credit counseling services from an approved agency, but was unable to obtain those services during the 7 days after I made my request, and exigent circumstances merit a 30-day temporary waiver of the requirement.

To ask for a 30-day temporary waiver of the requirement, attach a separate sheet explaining what efforts you made to obtain the briefing, why you were unable to obtain it before you filed for bankruptcy, and what exigent circumstances required you to file this case.

Your case may be dismissed if the court is dissatisfied with your reasons for not receiving a briefing before you filed for bankruptcy.

If the court is satisfied with your reasons, you must still receive a briefing within 30 days after you file. You must file a certificate from the approved agency, along with a copy of the payment plan you developed, if any. If you do not do so, your case may be dismissed.

Any extension of the 30-day deadline is granted only for cause and is limited to a maximum of 15 days.

- ☐ I am not required to receive a briefing about credit counseling because of:

- ☐ **Incapacity.** I have a mental illness or a mental deficiency that makes me incapable of realizing or making rational decisions about finances.

- ☐ **Disability.** My physical disability causes me to be unable to participate in a briefing in person, by phone, or through the internet, even after I reasonably tried to do so.

- ☐ **Active duty.** I am currently on active military duty in a military combat zone.

If you believe you are not required to receive a briefing about credit counseling, you must file a motion for waiver of credit counseling with the court.

About Debtor 2 (Spouse Only in a Joint Case):

You must check one:

- ☐ I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, and I received a certificate of completion.

Attach a copy of the certificate and the payment plan, if any, that you developed with the agency.

- ☐ I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, but I do not have a certificate of completion.

Within 14 days after you file this bankruptcy petition, you MUST file a copy of the certificate and payment plan, if any.

- ☐ I certify that I asked for credit counseling services from an approved agency, but was unable to obtain those services during the 7 days after I made my request, and exigent circumstances merit a 30-day temporary waiver of the requirement.

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- ☐ **Disability.** My physical disability causes me to be unable to participate in a briefing in person, by phone, or through the internet, even after I reasonably tried to do so.

- ☐ **Active duty.** I am currently on active military duty in a military combat zone.

If you believe you are not required to receive a briefing about credit counseling, you must file a motion for waiver of credit counseling with the court.

Debtor 1

Y. Roger

First Name Middle Name

Yu

Last Name

Case number (if known)

Part 6: Answer These Questions for Reporting Purposes

16. What kind of debts do you have?

16a. Are your debts primarily consumer debts? *Consumer debts* are defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose."

- ☐ No. Go to line 16b.
☒ Yes. Go to line 17.

16b. Are your debts primarily business debts? *Business debts* are debts that you incurred to obtain money for a business or investment or through the operation of the business or investment.

- ☐ No. Go to line 16c.
☐ Yes. Go to line 17.

16c. State the type of debts you owe that are not consumer debts or business debts.

17. Are you filing under Chapter 7?

☒ No. I am not filing under Chapter 7. Go to line 18.

Do you estimate that after any exempt property is excluded and administrative expenses are paid that funds will be available for distribution to unsecured creditors?

- ☐ Yes. I am filing under Chapter 7. Do you estimate that after any exempt property is excluded and administrative expenses are paid that funds will be available to distribute to unsecured creditors?
☐ No
☐ Yes

18. How many creditors do you estimate that you owe?

- ☒ 1-49
☐ 50-99
☐ 100-199
☐ 200-999
☐ 1,000-5,000
☐ 5,001-10,000
☐ 10,001-25,000
☐ 25,001-50,000
☐ 50,001-100,000
☐ More than 100,000

19. How much do you estimate your assets to be worth?

- ☐ \$0-\$50,000
☐ \$50,001-\$100,000
☐ \$100,001-\$500,000
☒ \$500,001-\$1 million
☐ \$1,000,001-\$10 million
☐ \$10,000,001-\$50 million
☐ \$50,000,001-\$100 million
☐ \$100,000,001-\$500 million
☐ \$500,000,001-\$1 billion
☐ \$1,000,000,001-\$10 billion
☐ \$10,000,000,001-\$50 billion
☐ More than \$50 billion

20. How much do you estimate your liabilities to be?

- ☐ \$0-\$50,000
☐ \$50,001-\$100,000
☐ \$100,001-\$500,000
☐ \$500,001-\$1 million
☒ \$1,000,001-\$10 million
☐ \$10,000,001-\$50 million
☐ \$50,000,001-\$100 million
☐ \$100,000,001-\$500 million
☐ \$500,000,001-\$1 billion
☐ \$1,000,000,001-\$10 billion
☐ \$10,000,000,001-\$50 billion
☐ More than \$50 billion

Part 7: Sign Below

For you

I have examined this petition, and I declare under penalty of perjury that the information provided is true and correct.

If I have chosen to file under Chapter 7, I am aware that I may proceed, if eligible, under Chapter 7, 11, 12, or 13 of title 11, United States Code. I understand the relief available under each chapter, and I choose to proceed under Chapter 7.

If no attorney represents me and I did not pay or agree to pay someone who is not an attorney to help me fill out this document, I have obtained and read the notice required by 11 U.S.C. § 342(b).

I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.

I understand making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$250,000, or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

X Y. Roger Yu

Signature of Debtor 1

Executed on 01/11/2023

MM / DD / YYYY

X

Signature of Debtor 2

Executed on

MM / DD / YYYY

Debtor 1

Y. Roger

First Name Middle Name

Yu

Last Name

Case number (if known)

For your attorney, if you are represented by one

If you are not represented by an attorney, you do not need to file this page.

I, the attorney for the debtor(s) named in this petition, declare that I have informed the debtor(s) about eligibility to proceed under Chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each chapter for which the person is eligible. I also certify that I have delivered to the debtor(s) the notice required by 11 U.S.C. § 342(b) and, in a case in which § 707(b)(4)(D) applies, certify that I have no knowledge after an inquiry that the information in the schedules filed with the petition is incorrect.

x

Signature of Attorney for Debtor

Date

MM / DD / YYYY

Printed name

Firm name

Number Street

City

State

ZIP Code

Contact phone

Email address

Bar number

State

For you if you are filing this bankruptcy without an attorney

If you are represented by an attorney, you do not need to file this page.

The law allows you, as an individual, to represent yourself in bankruptcy court, but **you should understand that many people find it extremely difficult to represent themselves successfully. Because bankruptcy has long-term financial and legal consequences, you are strongly urged to hire a qualified attorney.**

To be successful, you must correctly file and handle your bankruptcy case. The rules are very technical, and a mistake or inaction may affect your rights. For example, your case may be dismissed because you did not file a required document, pay a fee on time, attend a meeting or hearing, or cooperate with the court, case trustee, U.S. trustee, bankruptcy administrator, or audit firm if your case is selected for audit. If that happens, you could lose your right to file another case, or you may lose protections, including the benefit of the automatic stay.

You must list all your property and debts in the schedules that you are required to file with the court. Even if you plan to pay a particular debt outside of your bankruptcy, you must list that debt in your schedules. If you do not list a debt, the debt may not be discharged. If you do not list property or properly claim it as exempt, you may not be able to keep the property. The judge can also deny you a discharge of all your debts if you do something dishonest in your bankruptcy case, such as destroying or hiding property, falsifying records, or lying. Individual bankruptcy cases are randomly audited to determine if debtors have been accurate, truthful, and complete. **Bankruptcy fraud is a serious crime; you could be fined and imprisoned.**

If you decide to file without an attorney, the court expects you to follow the rules as if you had hired an attorney. The court will not treat you differently because you are filing for yourself. To be successful, you must be familiar with the United States Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the local rules of the court in which your case is filed. You must also be familiar with any state exemption laws that apply.

Are you aware that filing for bankruptcy is a serious action with long-term financial and legal consequences?

☐ No

☒ Yes

Are you aware that bankruptcy fraud is a serious crime and that if your bankruptcy forms are inaccurate or incomplete, you could be fined or imprisoned?

☐ No

☒ Yes

Did you pay or agree to pay someone who is not an attorney to help you fill out your bankruptcy forms?

☒ No

☐ Yes. Name of Person _____

Attach Bankruptcy Petition Preparer's Notice, Declaration, and Signature (Official Form 119).

By signing here, I acknowledge that I understand the risks involved in filing without an attorney. I have read and understood this notice, and I am aware that filing a bankruptcy case without an attorney may cause me to lose my rights or property if I do not properly handle the case.

X

Y. Roger Yu

Signature of Debtor 1

Date 01/11/2023
MM / DD / YYYY

Contact phone (408) 585-9152

Cell phone (408) 585-9152

Email address _____

X

Signature of Debtor 2

Date _____
MM / DD / YYYY

Contact phone _____

Cell phone _____

Email address _____

Exhibit “J”



Exhibit “K”

Ben Yu
115 College Ave,
Mountain View, CA 94040
Email: mtvbenyu@gmail.com
Plaintiff in Pro Per

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

Ben Yu, individually and as Trustee of the
115 College Avenue Trust, dated July 28,
2017,

Plaintiffs,

v.

Entra Default Solutions, LLC, a California
Corporation; and DOES 1 through 10,
Inclusive,

Defendants.

Case No: 22CV404291

~~PROPOSED~~ ORDER DENYING TRO
AND OSC

Date: October 25, 2022
Time: EX PARTE
Dept.: 12

The application for a Temporary Restraining Order came on before the undersigned on
October 25, 2022 in Department 12 of the above-captioned court, on the papers per local rule.

Based on the Application, Points and Authorities, and supporting declarations in the
moving papers, and the papers in opposition, the court orders as follows:

~~ORDER TO SHOW CAUSE~~

TO DEFENDANTS AND THEIR COUNSEL OF RECORD, You are ordered to appear
on _____, 2022 at _____ am/pm in Dept _____ of this Court located at _____
_____, to show cause as to why a preliminary injunction should
not be issued enjoining the sale of the property located at 115 College Ave, Mountain View, CA
94040.

This Order to Show Cause and supporting papers shall be served on Defendant no later
than _____ by facsimile (or _____). Proof of such service shall be

filed and delivered to the Court by no later than _____. Any Opposition papers by Defendant shall be filed and served on Plaintiff by no later than _____ by _____. Any Reply by Plaintiff shall be filed and served by no later than _____. Email or facsimile service of these documents is permitted.

IT IS SO ORDERED.

Dated: _____

Honorable Superior Court Judge

TEMPORARY RESTRAINING ORDER

Pending hearing on the below Order to Show Cause, Defendants, their employees, agents and/or any other person or entity acting with them or on their behalf are restrained and enjoined from the sale of the property located at 115 College Ave, Mountain View, CA 94040.

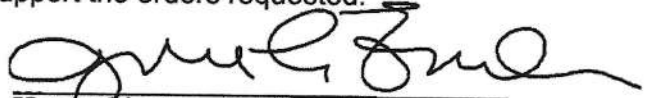
DENIED

IT IS SO ORDERED.

Signed: 10/25/2022 02:34 PM

DENIED due to lack of factual and legal basis to support the orders requested.

Dated: October 25, 2022



Honorable Superior Court Judge

Exhibit “L”

Fill in this information to identify your case:

United States Bankruptcy Court for the:

Northern District of California

Case number (if known): _____

Chapter you are filing under:

- ☐ Chapter 7
☐ Chapter 11
☐ Chapter 12
☒ Chapter 13

FILED
OCT 26 2022 *KP*
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

☐ Check if this is an amended filing

Official Form 101

Voluntary Petition for Individuals Filing for Bankruptcy

06/22

The bankruptcy forms use *you* and *Debtor 1* to refer to a debtor filing alone. A married couple may file a bankruptcy case together—called a *joint case*—and in joint cases, these forms use *you* to ask for information from both debtors. For example, if a form asks, “Do you own a car,” the answer would be yes if either debtor owns a car. When information is needed about the spouses separately, the form uses *Debtor 1* and *Debtor 2* to distinguish between them. In joint cases, one of the spouses must report information as *Debtor 1* and the other as *Debtor 2*. The same person must be *Debtor 1* in all of the forms.

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write your name and case number (if known). Answer every question.

Part 1: Identify Yourself

	About Debtor 1:	About Debtor 2 (Spouse Only in a Joint Case):
1. Your full name Write the name that is on your government-issued picture identification (for example, your driver's license or passport). Bring your picture identification to your meeting with the trustee.	Ben First name Yu Middle name Last name Suffix (Sr., Jr., II, III)	 First name Middle name Last name Suffix (Sr., Jr., II, III)
2. All other names you have used in the last 8 years Include your married or maiden names.	First name Middle name Last name First name Middle name Last name	First name Middle name Last name First name Middle name Last name
3. Only the last 4 digits of your Social Security number or federal Individual Taxpayer Identification number (ITIN)	XXX - XX - _____ OR 9 XX - XX - _____	XXX - XX - _____ OR 9 XX - XX - _____

Debtor 1

Ben

First Name

Middle Name

Yu

Last Name

Case number (if known)

About Debtor 1:**4. Any business names and Employer Identification Numbers (EIN) you have used in the last 8 years**

Include trade names and doing business as names

☒ I have not used any business names or EINs.

Business name

Business name

EIN

EIN

About Debtor 2 (Spouse Only in a Joint Case):☐ I have not used any business names or EINs.

Business name

Business name

EIN

EIN

5. Where you live

115 College Ave

Number Street

Mountain View

City

CA

State

94040

ZIP Code

Santa Clara

County

If your mailing address is different from the one above, fill it in here. Note that the court will send any notices to you at this mailing address.

Number Street

P.O. Box

City

State

ZIP Code

If Debtor 2 lives at a different address:

Number Street

City

State

ZIP Code

County

If Debtor 2's mailing address is different from yours, fill it in here. Note that the court will send any notices to this mailing address.

Number Street

P.O. Box

City

State

ZIP Code

6. Why you are choosing this district to file for bankruptcy

Check one:

☒ Over the last 180 days before filing this petition, I have lived in this district longer than in any other district.☐ I have another reason. Explain.
(See 28 U.S.C. § 1408.)

Check one:

☐ Over the last 180 days before filing this petition, I have lived in this district longer than in any other district.☐ I have another reason. Explain.
(See 28 U.S.C. § 1408.)

Debtor 1

Ben

First Name

Middle Name

Yu

Last Name

Case number (if known)

Part 2: Tell the Court About Your Bankruptcy Case**7. The chapter of the Bankruptcy Code you are choosing to file under**

Check one. (For a brief description of each, see *Notice Required by 11 U.S.C. § 342(b) for Individuals Filing for Bankruptcy* (Form 2010)). Also, go to the top of page 1 and check the appropriate box.

- ☐ Chapter 7
- ☐ Chapter 11
- ☐ Chapter 12
- ☒ Chapter 13

8. How you will pay the fee

☒ I will pay the entire fee when I file my petition. Please check with the clerk's office in your local court for more details about how you may pay. Typically, if you are paying the fee yourself, you may pay with cash, cashier's check, or money order. If your attorney is submitting your payment on your behalf, your attorney may pay with a credit card or check with a pre-printed address.

☐ I need to pay the fee in installments. If you choose this option, sign and attach the *Application for Individuals to Pay The Filing Fee in Installments* (Official Form 103A).

☐ I request that my fee be waived (You may request this option only if you are filing for Chapter 7. By law, a judge may, but is not required to, waive your fee, and may do so only if your income is less than 150% of the official poverty line that applies to your family size and you are unable to pay the fee in installments). If you choose this option, you must fill out the *Application to Have the Chapter 7 Filing Fee Waived* (Official Form 103B) and file it with your petition.

9. Have you filed for bankruptcy within the last 8 years?

☒ No

☐ Yes. District _____ When _____ Case number _____
MM / DD / YYYY

District _____ When _____ Case number _____
MM / DD / YYYY

District _____ When _____ Case number _____
MM / DD / YYYY

10. Are any bankruptcy cases pending or being filed by a spouse who is not filing this case with you, or by a business partner, or by an affiliate?

☒ No

☐ Yes. Debtor _____ Relationship to you _____
District _____ When _____ Case number, if known _____
MM / DD / YYYY

Debtor _____ Relationship to you _____
District _____ When _____ Case number, if known _____
MM / DD / YYYY

11. Do you rent your residence?

☒ No. Go to line 12.

☐ Yes. Has your landlord obtained an eviction judgment against you?

☐ No. Go to line 12.

☐ Yes. Fill out *Initial Statement About an Eviction Judgment Against You* (Form 101A) and file it as part of this bankruptcy petition.

Part 3: Report About Any Businesses You Own as a Sole Proprietor**12. Are you a sole proprietor of any full- or part-time business?**

A sole proprietorship is a business you operate as an individual, and is not a separate legal entity such as a corporation, partnership, or LLC.

If you have more than one sole proprietorship, use a separate sheet and attach it to this petition.

☒ No. Go to Part 4.

☐ Yes. Name and location of business

Name of business, if any

Number Street

City

State

ZIP Code

Check the appropriate box to describe your business:

- ☐ Health Care Business (as defined in 11 U.S.C. § 101(27A))
- ☐ Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- ☐ Stockbroker (as defined in 11 U.S.C. § 101(53A))
- ☐ Commodity Broker (as defined in 11 U.S.C. § 101(6))
- ☐ None of the above

13. Are you filing under Chapter 11 of the Bankruptcy Code, and are you a small business debtor or a debtor as defined by 11 U.S.C. § 1182(1)?

For a definition of *small business debtor*, see 11 U.S.C. § 101(51D).

If you are filing under Chapter 11, the court must know whether you are a small business debtor or a debtor choosing to proceed under Subchapter V so that it can set appropriate deadlines. If you indicate that you are a small business debtor or you are choosing to proceed under Subchapter V, you must attach your most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).

☒ No. I am not filing under Chapter 11.

☐ No. I am filing under Chapter 11, but I am NOT a small business debtor according to the definition in the Bankruptcy Code.

☐ Yes. I am filing under Chapter 11, I am a small business debtor according to the definition in the Bankruptcy Code, and I do not choose to proceed under Subchapter V of Chapter 11.

☐ Yes. I am filing under Chapter 11, I am a debtor according to the definition in § 1182(1) of the Bankruptcy Code, and I choose to proceed under Subchapter V of Chapter 11.

Debtor 1

Ben

First Name

Middle Name

Yu

Last Name

Case number (if known)

Part 4: Report if You Own or Have Any Hazardous Property or Any Property That Needs Immediate Attention

14. Do you own or have any property that poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety? Or do you own any property that needs immediate attention?

For example, do you own perishable goods, or livestock that must be fed, or a building that needs urgent repairs?

☒ No

☐ Yes. What is the hazard?

If immediate attention is needed, why is it needed?

Where is the property?

Number

Street

City

State

ZIP Code

Part 5: Explain Your Efforts to Receive a Briefing About Credit Counseling**15. Tell the court whether you have received a briefing about credit counseling.**

The law requires that you receive a briefing about credit counseling before you file for bankruptcy. You must truthfully check one of the following choices. If you cannot do so, you are not eligible to file.

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About Debtor 1:

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- ☒ I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, and I received a certificate of completion.

Attach a copy of the certificate and the payment plan, if any, that you developed with the agency.

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To ask for a 30-day temporary waiver of the requirement, attach a separate sheet explaining what efforts you made to obtain the briefing, why you were unable to obtain it before you filed for bankruptcy, and what exigent circumstances required you to file this case.

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If the court is satisfied with your reasons, you must still receive a briefing within 30 days after you file. You must file a certificate from the approved agency, along with a copy of the payment plan you developed, if any. If you do not do so, your case may be dismissed.

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- ☐ **Incapacity.** I have a mental illness or a mental deficiency that makes me incapable of realizing or making rational decisions about finances.

- ☐ **Disability.** My physical disability causes me to be unable to participate in a briefing in person, by phone, or through the internet, even after I reasonably tried to do so.

- ☐ **Active duty.** I am currently on active military duty in a military combat zone.

If you believe you are not required to receive a briefing about credit counseling, you must file a motion for waiver of credit counseling with the court.

About Debtor 2 (Spouse Only in a Joint Case):

You must check one:

- ☐ I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, and I received a certificate of completion.

Attach a copy of the certificate and the payment plan, if any, that you developed with the agency.

- ☐ I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, but I do not have a certificate of completion.

Within 14 days after you file this bankruptcy petition, you MUST file a copy of the certificate and payment plan, if any.

- ☐ I certify that I asked for credit counseling services from an approved agency, but was unable to obtain those services during the 7 days after I made my request, and exigent circumstances merit a 30-day temporary waiver of the requirement.

To ask for a 30-day temporary waiver of the requirement, attach a separate sheet explaining what efforts you made to obtain the briefing, why you were unable to obtain it before you filed for bankruptcy, and what exigent circumstances required you to file this case.

Your case may be dismissed if the court is dissatisfied with your reasons for not receiving a briefing before you filed for bankruptcy.

If the court is satisfied with your reasons, you must still receive a briefing within 30 days after you file. You must file a certificate from the approved agency, along with a copy of the payment plan you developed, if any. If you do not do so, your case may be dismissed.

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- ☐ I am not required to receive a briefing about credit counseling because of:

- ☐ **Incapacity.** I have a mental illness or a mental deficiency that makes me incapable of realizing or making rational decisions about finances.

- ☐ **Disability.** My physical disability causes me to be unable to participate in a briefing in person, by phone, or through the internet, even after I reasonably tried to do so.

- ☐ **Active duty.** I am currently on active military duty in a military combat zone.

If you believe you are not required to receive a briefing about credit counseling, you must file a motion for waiver of credit counseling with the court.

Debtor 1

Ben

First Name

Middle Name

Yu

Last Name

Case number (if known)

Part 6: Answer These Questions for Reporting Purposes**16. What kind of debts do you have?****16a. Are your debts primarily consumer debts?** *Consumer debts* are defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose."

- ☐ No. Go to line 16b.
☒ Yes. Go to line 17.

16b. Are your debts primarily business debts? *Business debts* are debts that you incurred to obtain money for a business or investment or through the operation of the business or investment.

- ☐ No. Go to line 16c.
☐ Yes. Go to line 17.

16c. State the type of debts you owe that are not consumer debts or business debts.**17. Are you filing under Chapter 7?**☒ No. I am not filing under Chapter 7. Go to line 18.**Do you estimate that after any exempt property is excluded and administrative expenses are paid that funds will be available for distribution to unsecured creditors?**

- ☐ Yes. I am filing under Chapter 7. Do you estimate that after any exempt property is excluded and administrative expenses are paid that funds will be available to distribute to unsecured creditors?
☐ No
☐ Yes

18. How many creditors do you estimate that you owe?

- | | | |
|--|--|--|
| <input checked="" type="checkbox"/> 1-49 | <input type="checkbox"/> 1,000-5,000 | <input type="checkbox"/> 25,001-50,000 |
| <input type="checkbox"/> 50-99 | <input type="checkbox"/> 5,001-10,000 | <input type="checkbox"/> 50,001-100,000 |
| <input type="checkbox"/> 100-199 | <input type="checkbox"/> 10,001-25,000 | <input type="checkbox"/> More than 100,000 |
| <input type="checkbox"/> 200-999 | | |

19. How much do you estimate your assets to be worth?

- | | | |
|---|--|--|
| <input type="checkbox"/> \$0-\$50,000 | <input type="checkbox"/> \$1,000,001-\$10 million | <input type="checkbox"/> \$500,000,001-\$1 billion |
| <input type="checkbox"/> \$50,001-\$100,000 | <input type="checkbox"/> \$10,000,001-\$50 million | <input type="checkbox"/> \$1,000,000,001-\$10 billion |
| <input checked="" type="checkbox"/> \$100,001-\$500,000 | <input type="checkbox"/> \$50,000,001-\$100 million | <input type="checkbox"/> \$10,000,000,001-\$50 billion |
| <input type="checkbox"/> \$500,001-\$1 million | <input type="checkbox"/> \$100,000,001-\$500 million | <input type="checkbox"/> More than \$50 billion |

20. How much do you estimate your liabilities to be?

- | | | |
|---|--|--|
| <input type="checkbox"/> \$0-\$50,000 | <input type="checkbox"/> \$1,000,001-\$10 million | <input type="checkbox"/> \$500,000,001-\$1 billion |
| <input type="checkbox"/> \$50,001-\$100,000 | <input type="checkbox"/> \$10,000,001-\$50 million | <input type="checkbox"/> \$1,000,000,001-\$10 billion |
| <input checked="" type="checkbox"/> \$100,001-\$500,000 | <input type="checkbox"/> \$50,000,001-\$100 million | <input type="checkbox"/> \$10,000,000,001-\$50 billion |
| <input type="checkbox"/> \$500,001-\$1 million | <input type="checkbox"/> \$100,000,001-\$500 million | <input type="checkbox"/> More than \$50 billion |

Part 7: Sign Below**For you**

I have examined this petition, and I declare under penalty of perjury that the information provided is true and correct.

If I have chosen to file under Chapter 7, I am aware that I may proceed, if eligible, under Chapter 7, 11, 12, or 13 of title 11, United States Code. I understand the relief available under each chapter, and I choose to proceed under Chapter 7.

If no attorney represents me and I did not pay or agree to pay someone who is not an attorney to help me fill out this document, I have obtained and read the notice required by 11 U.S.C. § 342(b).

I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.

I understand making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$250,000, or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

X

Signature of Debtor 1

Executed on 10/26/2022

MM / DD / YYYY

X

Signature of Debtor 2

Executed on

MM / DD / YYYY

Debtor 1

Ben

First Name

Middle Name

Yu

Last Name

Case number (if known)

For your attorney, if you are represented by one

If you are not represented by an attorney, you do not need to file this page.

I, the attorney for the debtor(s) named in this petition, declare that I have informed the debtor(s) about eligibility to proceed under Chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each chapter for which the person is eligible. I also certify that I have delivered to the debtor(s) the notice required by 11 U.S.C. § 342(b) and, in a case in which § 707(b)(4)(D) applies, certify that I have no knowledge after an inquiry that the information in the schedules filed with the petition is incorrect.

X

Signature of Attorney for Debtor

Date

MM / DD / YYYY

Printed name

Firm name

Number Street

City

State

ZIP Code

Contact phone

Email address

Bar number

State

Debtor 1

Ben

First Name

Yu

Last Name

Case number (if known)

For you if you are filing this bankruptcy without an attorney

If you are represented by an attorney, you do not need to file this page.

The law allows you, as an individual, to represent yourself in bankruptcy court, but **you should understand that many people find it extremely difficult to represent themselves successfully. Because bankruptcy has long-term financial and legal consequences, you are strongly urged to hire a qualified attorney.**

To be successful, you must correctly file and handle your bankruptcy case. The rules are very technical, and a mistake or inaction may affect your rights. For example, your case may be dismissed because you did not file a required document, pay a fee on time, attend a meeting or hearing, or cooperate with the court, case trustee, U.S. trustee, bankruptcy administrator, or audit firm if your case is selected for audit. If that happens, you could lose your right to file another case, or you may lose protections, including the benefit of the automatic stay.

You must list all your property and debts in the schedules that you are required to file with the court. Even if you plan to pay a particular debt outside of your bankruptcy, you must list that debt in your schedules. If you do not list a debt, the debt may not be discharged. If you do not list property or properly claim it as exempt, you may not be able to keep the property. The judge can also deny you a discharge of all your debts if you do something dishonest in your bankruptcy case, such as destroying or hiding property, falsifying records, or lying. Individual bankruptcy cases are randomly audited to determine if debtors have been accurate, truthful, and complete. **Bankruptcy fraud is a serious crime; you could be fined and imprisoned.**

If you decide to file without an attorney, the court expects you to follow the rules as if you had hired an attorney. The court will not treat you differently because you are filing for yourself. To be successful, you must be familiar with the United States Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the local rules of the court in which your case is filed. You must also be familiar with any state exemption laws that apply.

Are you aware that filing for bankruptcy is a serious action with long-term financial and legal consequences?

- ☐ No
☒ Yes

Are you aware that bankruptcy fraud is a serious crime and that if your bankruptcy forms are inaccurate or incomplete, you could be fined or imprisoned?

- ☐ No
☒ Yes

Did you pay or agree to pay someone who is not an attorney to help you fill out your bankruptcy forms?

- ☒ No
☐ Yes. Name of Person _____

Attach Bankruptcy Petition Preparer's Notice, Declaration, and Signature (Official Form 119).

By signing here, I acknowledge that I understand the risks involved in filing without an attorney. I have read and understood this notice, and I am aware that filing a bankruptcy case without an attorney may cause me to lose my rights or property if I do not properly handle the case.

X

Signature of Debtor 1

Date 10/26/2022
 MM / DD / YYYY

Contact phone (650) 229-8391

Cell phone (650) 229-8391

Email address mtvbenyu@gmail.com

X

Signature of Debtor 2

Date _____
 MM / DD / YYYY

Contact phone _____

Cell phone _____

Email address _____

Exhibit “M”

**UNITED STATES BANKRUPTCY COURT
California Northern Bankruptcy Court**

In	Ben Yu	Case No.: 22-50976 SLJ 13
Re:		
	Debtor(s)	Chapter: 13

**ORDER AND NOTICE OF DISMISSAL
FOR FAILURE TO COMPLY**

Notice is hereby given that the debtor(s) failed to comply with this court's Notice of Failure to Provide Debtor's Social Security Number , filed on October 26, 2022 . Therefore, it is ordered that this case be **dismissed**.

Dated: 11/10/22

By the Court:

Stephen L. Johnson
United States Bankruptcy Judge

Notice Recipients

District/Off: 0971-5
Case: 22-50976

User: admin
Form ID: NDC

Date Created: 11/10/2022
Total: 11

Recipients of Notice of Electronic Filing:

ust	Office of the U.S. Trustee / SJ	USTPRegion17.SJ.ECF@usdoj.gov
tr	Devin Derham-Burk	ctdocs@ch13sj.com
aty	Reilly Wilkinson	rwilkinson@scheerlawgroup.com

TOTAL: 3

Recipients submitted to the BNC (Bankruptcy Noticing Center):

db	Ben Yu	115 College Ave	Mountain View, CA 94040	
reqntc	Douglas G. Sykes	c/o Scheer Law Group	85 Argonaut #202	Aliso Viejo, CA 92656
smg	State Board of Equalization	Attn: Special Procedures Section, MIC:55		P.O. Box
	942879	Sacramento, CA 94279		
smg	CA Employment Development Dept.	Bankruptcy Group MIC 92E	P.O. Box 826880	Sacramento,
	CA 94280-0001			
smg	CA Franchise Tax Board	Attn: Special Procedures	P.O. Box 2952	Sacramento, CA 95812-2952
smg	IRS	P.O. Box 7346	Philadelphia, PA 19101-7346	
15445835	SETH COHEN	2355 WESTWOOD BLVD #1518	LOS ANGELES, CA 90064	
15445836	VERIZON	ONE VERIZON WAY	BASKING RIDGE, NJ 07920	

TOTAL: 8

Exhibit “N”

FILED

DEC 09 2022

U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

Fill in this information to identify your case:

United States Bankruptcy Court for the:

Northern District of California

Case number (if known):

Chapter you are filing under:

- ☐ Chapter 7
☐ Chapter 11
☐ Chapter 12
☒ Chapter 13

☐ Check if this is an
amended filing

Official Form 101

Voluntary Petition for Individuals Filing for Bankruptcy

06/22

The bankruptcy forms use *you* and *Debtor 1* to refer to a debtor filing alone. A married couple may file a bankruptcy case together—called a *joint case*—and in joint cases, these forms use *you* to ask for information from both debtors. For example, if a form asks, "Do you own a car," the answer would be *yes* if either debtor owns a car. When information is needed about the spouses separately, the form uses *Debtor 1* and *Debtor 2* to distinguish between them. In joint cases, one of the spouses must report information as *Debtor 1* and the other as *Debtor 2*. The same person must be *Debtor 1* in all of the forms.

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write your name and case number (if known). Answer every question.

Part 1: Identify Yourself**1. Your full name**

Write the name that is on your government-issued picture identification (for example, your driver's license or passport).

Bring your picture identification to your meeting with the trustee.

About Debtor 1:

Ben

First name

Middle name

Yu

Last name

Suffix (Sr., Jr., II, III)

About Debtor 2 (Spouse Only in a Joint Case):

First name

Middle name

Last name

Suffix (Sr., Jr., II, III)

2. All other names you have used in the last 8 years

Include your married or maiden names.

First name

Middle name

Last name

First name

Middle name

Last name

First name

Middle name

Last name

First name

Middle name

Last name

3. Only the last 4 digits of your Social Security number or federal Individual Taxpayer Identification number (ITIN)

XXX - XX -

OR

9 XX - XX -

XXX - XX -

OR

9 XX - XX -

Debtor 1

Ben

Yu

First Name

Middle Name

Last Name

Case number (if known)

About Debtor 1:

About Debtor 2 (Spouse Only in a Joint Case):

4. Any business names and Employer Identification Numbers (EIN) you have used in the last 8 years

Include trade names and doing business as names

☒ I have not used any business names or EINs.☐ I have not used any business names or EINs.

Business name

Business name

Business name

Business name

EIN

EIN

EIN

EIN

5. Where you live

If Debtor 2 lives at a different address:

115 College Ave

Number Street

Number Street

Mountain View

CA

94040

City

State

ZIP Code

City

State

ZIP Code

Santa Clara

County

County

If your mailing address is different from the one above, fill it in here. Note that the court will send any notices to you at this mailing address.

If Debtor 2's mailing address is different from yours, fill it in here. Note that the court will send any notices to this mailing address.

Number Street

Number Street

P.O. Box

P.O. Box

City

State

ZIP Code

City

State

ZIP Code

6. Why you are choosing this district to file for bankruptcy

Check one:

☒ Over the last 180 days before filing this petition, I have lived in this district longer than in any other district.

☐ I have another reason. Explain.
(See 28 U.S.C. § 1408.)

Check one:

☐ Over the last 180 days before filing this petition, I have lived in this district longer than in any other district.

☐ I have another reason. Explain.
(See 28 U.S.C. § 1408.)

Part 2: Tell the Court About Your Bankruptcy Case**7. The chapter of the Bankruptcy Code you are choosing to file under**

Check one. (For a brief description of each, see *Notice Required by 11 U.S.C. § 342(b) for Individuals Filing for Bankruptcy* (Form 2010)). Also, go to the top of page 1 and check the appropriate box.

- ☐ Chapter 7
- ☐ Chapter 11
- ☐ Chapter 12
- ☒ Chapter 13

8. How you will pay the fee

- ☐ I will pay the entire fee when I file my petition. Please check with the clerk's office in your local court for more details about how you may pay. Typically, if you are paying the fee yourself, you may pay with cash, cashier's check, or money order. If your attorney is submitting your payment on your behalf, your attorney may pay with a credit card or check with a pre-printed address.
- ☒ I need to pay the fee in installments. If you choose this option, sign and attach the *Application for Individuals to Pay The Filing Fee in Installments* (Official Form 103A).
- ☐ I request that my fee be waived (You may request this option only if you are filing for Chapter 7. By law, a judge may, but is not required to, waive your fee, and may do so only if your income is less than 150% of the official poverty line that applies to your family size and you are unable to pay the fee in installments). If you choose this option, you must fill out the *Application to Have the Chapter 7 Filing Fee Waived* (Official Form 103B) and file it with your petition.

9. Have you filed for bankruptcy within the last 8 years?

- ☐ No
- ☒ Yes. District Northern California When 10/26/2022 Case number 22-50976
MM / DD / YYYY
- District _____ When _____ Case number _____
MM / DD / YYYY
- District _____ When _____ Case number _____
MM / DD / YYYY

10. Are any bankruptcy cases pending or being filed by a spouse who is not filing this case with you, or by a business partner, or by an affiliate?

- ☒ No
- ☐ Yes. Debtor _____ Relationship to you _____
District _____ When _____ Case number, if known _____
MM / DD / YYYY
- Debtor _____ Relationship to you _____
District _____ When _____ Case number, if known _____
MM / DD / YYYY

11. Do you rent your residence?

- ☒ No. Go to line 12.
- ☐ Yes. Has your landlord obtained an eviction judgment against you?
- ☐ No. Go to line 12.
- ☐ Yes. Fill out *Initial Statement About an Eviction Judgment Against You* (Form 101A) and file it as part of this bankruptcy petition.

Part 3: Report About Any Businesses You Own as a Sole Proprietor**12. Are you a sole proprietor of any full- or part-time business?**

A sole proprietorship is a business you operate as an individual, and is not a separate legal entity such as a corporation, partnership, or LLC.

If you have more than one sole proprietorship, use a separate sheet and attach it to this petition.

☒ No. Go to Part 4.

☐ Yes. Name and location of business

Name of business, if any

Number Street

City

State

ZIP Code

Check the appropriate box to describe your business:

- ☐ Health Care Business (as defined in 11 U.S.C. § 101(27A))
- ☐ Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- ☐ Stockbroker (as defined in 11 U.S.C. § 101(53A))
- ☐ Commodity Broker (as defined in 11 U.S.C. § 101(6))
- ☐ None of the above

13. Are you filing under Chapter 11 of the Bankruptcy Code, and are you a small business debtor or a debtor as defined by 11 U.S.C. § 1182(1)?

For a definition of *small business debtor*, see 11 U.S.C. § 101(51D).

If you are filing under Chapter 11, the court must know whether you are a small business debtor or a debtor choosing to proceed under Subchapter V so that it can set appropriate deadlines. If you indicate that you are a small business debtor or you are choosing to proceed under Subchapter V, you must attach your most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).

- ☒ No. I am not filing under Chapter 11.
- ☐ No. I am filing under Chapter 11, but I am NOT a small business debtor according to the definition in the Bankruptcy Code.
- ☐ Yes. I am filing under Chapter 11, I am a small business debtor according to the definition in the Bankruptcy Code, and I do not choose to proceed under Subchapter V of Chapter 11.
- ☐ Yes. I am filing under Chapter 11, I am a debtor according to the definition in § 1182(1) of the Bankruptcy Code, and I choose to proceed under Subchapter V of Chapter 11.

Debtor 1

Ben

First Name

Yu

Middle Name

Last Name

Case number (if known)

Part 4: Report if You Own or Have Any Hazardous Property or Any Property That Needs Immediate Attention

14. Do you own or have any property that poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety? Or do you own any property that needs immediate attention?

☒ No

☐ Yes. What is the hazard?

If immediate attention is needed, why is it needed?

Where is the property?

Number

Street

City

State

ZIP Code

For example, do you own perishable goods, or livestock that must be fed, or a building that needs urgent repairs?

Part 5: Explain Your Efforts to Receive a Briefing About Credit Counseling**15. Tell the court whether you have received a briefing about credit counseling.**

The law requires that you receive a briefing about credit counseling before you file for bankruptcy. You must truthfully check one of the following choices. If you cannot do so, you are not eligible to file.

If you file anyway, the court can dismiss your case, you will lose whatever filing fee you paid, and your creditors can begin collection activities again.

About Debtor 1:

You must check one:

☒ I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, and I received a certificate of completion.

Attach a copy of the certificate and the payment plan, if any, that you developed with the agency.

☐ I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, but I do not have a certificate of completion.

Within 14 days after you file this bankruptcy petition, you **MUST** file a copy of the certificate and payment plan, if any.

☐ I certify that I asked for credit counseling services from an approved agency, but was unable to obtain those services during the 7 days after I made my request, and exigent circumstances merit a 30-day temporary waiver of the requirement.

To ask for a 30-day temporary waiver of the requirement, attach a separate sheet explaining what efforts you made to obtain the briefing, why you were unable to obtain it before you filed for bankruptcy, and what exigent circumstances required you to file this case.

Your case may be dismissed if the court is dissatisfied with your reasons for not receiving a briefing before you filed for bankruptcy.

If the court is satisfied with your reasons, you must still receive a briefing within 30 days after you file. You must file a certificate from the approved agency, along with a copy of the payment plan you developed, if any. If you do not do so, your case may be dismissed.

Any extension of the 30-day deadline is granted only for cause and is limited to a maximum of 15 days.

☐ I am not required to receive a briefing about credit counseling because of:

☐ **Incapacity.** I have a mental illness or a mental deficiency that makes me incapable of realizing or making rational decisions about finances.

☐ **Disability.** My physical disability causes me to be unable to participate in a briefing in person, by phone, or through the internet, even after I reasonably tried to do so.

☐ **Active duty.** I am currently on active military duty in a military combat zone.

If you believe you are not required to receive a briefing about credit counseling, you must file a motion for waiver of credit counseling with the court.

About Debtor 2 (Spouse Only In a Joint Case):

You must check one:

☐ I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, and I received a certificate of completion.

Attach a copy of the certificate and the payment plan, if any, that you developed with the agency.

☐ I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, but I do not have a certificate of completion.

Within 14 days after you file this bankruptcy petition, you **MUST** file a copy of the certificate and payment plan, if any.

☐ I certify that I asked for credit counseling services from an approved agency, but was unable to obtain those services during the 7 days after I made my request, and exigent circumstances merit a 30-day temporary waiver of the requirement.

To ask for a 30-day temporary waiver of the requirement, attach a separate sheet explaining what efforts you made to obtain the briefing, why you were unable to obtain it before you filed for bankruptcy, and what exigent circumstances required you to file this case.

Your case may be dismissed if the court is dissatisfied with your reasons for not receiving a briefing before you filed for bankruptcy.

If the court is satisfied with your reasons, you must still receive a briefing within 30 days after you file. You must file a certificate from the approved agency, along with a copy of the payment plan you developed, if any. If you do not do so, your case may be dismissed.

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☐ **Incapacity.** I have a mental illness or a mental deficiency that makes me incapable of realizing or making rational decisions about finances.

☐ **Disability.** My physical disability causes me to be unable to participate in a briefing in person, by phone, or through the internet, even after I reasonably tried to do so.

☐ **Active duty.** I am currently on active military duty in a military combat zone.

If you believe you are not required to receive a briefing about credit counseling, you must file a motion for waiver of credit counseling with the court.

Part 6: Answer These Questions for Reporting Purposes**16. What kind of debts do you have?****16a. Are your debts primarily consumer debts?** *Consumer debts* are defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose."

- ☐ No. Go to line 16b.
☒ Yes. Go to line 17.

16b. Are your debts primarily business debts? *Business debts* are debts that you incurred to obtain money for a business or investment or through the operation of the business or investment.

- ☐ No. Go to line 16c.
☐ Yes. Go to line 17.

16c. State the type of debts you owe that are not consumer debts or business debts.**17. Are you filing under Chapter 7?**☒ No. I am not filing under Chapter 7. Go to line 18.

Do you estimate that after any exempt property is excluded and administrative expenses are paid that funds will be available for distribution to unsecured creditors?

- ☐ Yes. I am filing under Chapter 7. Do you estimate that after any exempt property is excluded and administrative expenses are paid that funds will be available to distribute to unsecured creditors?
- ☐ No
☐ Yes

18. How many creditors do you estimate that you owe?

- | | | |
|--|--|--|
| <input checked="" type="checkbox"/> 1-49 | <input type="checkbox"/> 1,000-5,000 | <input type="checkbox"/> 25,001-50,000 |
| <input type="checkbox"/> 50-99 | <input type="checkbox"/> 5,001-10,000 | <input type="checkbox"/> 50,001-100,000 |
| <input type="checkbox"/> 100-199 | <input type="checkbox"/> 10,001-25,000 | <input type="checkbox"/> More than 100,000 |
| <input type="checkbox"/> 200-999 | | |

19. How much do you estimate your assets to be worth?

- | | | |
|---|--|--|
| <input type="checkbox"/> \$0-\$50,000 | <input type="checkbox"/> \$1,000,001-\$10 million | <input type="checkbox"/> \$500,000,001-\$1 billion |
| <input type="checkbox"/> \$50,001-\$100,000 | <input type="checkbox"/> \$10,000,001-\$50 million | <input type="checkbox"/> \$1,000,000,001-\$10 billion |
| <input checked="" type="checkbox"/> \$100,001-\$500,000 | <input type="checkbox"/> \$50,000,001-\$100 million | <input type="checkbox"/> \$10,000,000,001-\$50 billion |
| <input type="checkbox"/> \$500,001-\$1 million | <input type="checkbox"/> \$100,000,001-\$500 million | <input type="checkbox"/> More than \$50 billion |

20. How much do you estimate your liabilities to be?

- | | | |
|---|--|--|
| <input type="checkbox"/> \$0-\$50,000 | <input type="checkbox"/> \$1,000,001-\$10 million | <input type="checkbox"/> \$500,000,001-\$1 billion |
| <input type="checkbox"/> \$50,001-\$100,000 | <input type="checkbox"/> \$10,000,001-\$50 million | <input type="checkbox"/> \$1,000,000,001-\$10 billion |
| <input checked="" type="checkbox"/> \$100,001-\$500,000 | <input type="checkbox"/> \$50,000,001-\$100 million | <input type="checkbox"/> \$10,000,000,001-\$50 billion |
| <input type="checkbox"/> \$500,001-\$1 million | <input type="checkbox"/> \$100,000,001-\$500 million | <input type="checkbox"/> More than \$50 billion |

Part 7: Sign Below**For you**

I have examined this petition, and I declare under penalty of perjury that the information provided is true and correct.

If I have chosen to file under Chapter 7, I am aware that I may proceed, if eligible, under Chapter 7, 11, 12, or 13 of title 11, United States Code. I understand the relief available under each chapter, and I choose to proceed under Chapter 7.

If no attorney represents me and I did not pay or agree to pay someone who is not an attorney to help me fill out this document, I have obtained and read the notice required by 11 U.S.C. § 342(b).

I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.

I understand making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$250,000, or imprisonment for up to 20 years, or both.

18 U.S.C. §§ 152, 1341, 1519, and 3571.

X Ben Yu

Signature of Debtor 1

Executed on 12/08/2022

MM / DD / YYYY

X

Signature of Debtor 2

Executed on

MM / DD / YYYY

Debtor 1

Ben

First Name

Middle Name

Yu

Last Name

Case number (if known)

For your attorney, if you are represented by one

If you are not represented by an attorney, you do not need to file this page.

I, the attorney for the debtor(s) named in this petition, declare that I have informed the debtor(s) about eligibility to proceed under Chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each chapter for which the person is eligible. I also certify that I have delivered to the debtor(s) the notice required by 11 U.S.C. § 342(b) and, in a case in which § 707(b)(4)(D) applies, certify that I have no knowledge after an inquiry that the information in the schedules filed with the petition is incorrect.

X

Signature of Attorney for Debtor

Date

MM / DD / YYYY

Printed name

Firm name

Number Street

City

State

ZIP Code

Contact phone

Email address

Bar number

State

For you if you are filing this bankruptcy without an attorney

If you are represented by an attorney, you do not need to file this page.

The law allows you, as an individual, to represent yourself in bankruptcy court, but **you should understand that many people find it extremely difficult to represent themselves successfully. Because bankruptcy has long-term financial and legal consequences, you are strongly urged to hire a qualified attorney.**

To be successful, you must correctly file and handle your bankruptcy case. The rules are very technical, and a mistake or inaction may affect your rights. For example, your case may be dismissed because you did not file a required document, pay a fee on time, attend a meeting or hearing, or cooperate with the court, case trustee, U.S. trustee, bankruptcy administrator, or audit firm if your case is selected for audit. If that happens, you could lose your right to file another case, or you may lose protections, including the benefit of the automatic stay.

You must list all your property and debts in the schedules that you are required to file with the court. Even if you plan to pay a particular debt outside of your bankruptcy, you must list that debt in your schedules. If you do not list a debt, the debt may not be discharged. If you do not list property or properly claim it as exempt, you may not be able to keep the property. The judge can also deny you a discharge of all your debts if you do something dishonest in your bankruptcy case, such as destroying or hiding property, falsifying records, or lying. Individual bankruptcy cases are randomly audited to determine if debtors have been accurate, truthful, and complete. **Bankruptcy fraud is a serious crime; you could be fined and imprisoned.**

If you decide to file without an attorney, the court expects you to follow the rules as if you had hired an attorney. The court will not treat you differently because you are filing for yourself. To be successful, you must be familiar with the United States Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the local rules of the court in which your case is filed. You must also be familiar with any state exemption laws that apply.

Are you aware that filing for bankruptcy is a serious action with long-term financial and legal consequences?

- ☐ No
☒ Yes

Are you aware that bankruptcy fraud is a serious crime and that if your bankruptcy forms are inaccurate or incomplete, you could be fined or imprisoned?

- ☐ No
☒ Yes

Did you pay or agree to pay someone who is not an attorney to help you fill out your bankruptcy forms?

- ☒ No
☐ Yes. Name of Person _____

Attach Bankruptcy Petition Preparer's Notice, Declaration, and Signature (Official Form 119).

By signing here, I acknowledge that I understand the risks involved in filing without an attorney. I have read and understood this notice, and I am aware that filing a bankruptcy case without an attorney may cause me to lose my rights or property if I do not properly handle the case.

X

Ben Yu

Signature of Debtor 1

Date 12/08/2022
 MM / DD / YYYY

Contact phone (650) 229-8391

Cell phone (650) 229-8391

Email address mtvbenyu@gmail.com

X

Signature of Debtor 2

Date _____
 MM / DD / YYYY

Contact phone _____

Cell phone _____

Email address _____

Exhibit “O”



The following constitutes the order of the Court.
Signed: January 11, 2023

M. Elaine Hammond

M. Elaine Hammond
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re

BEN YU,

Debtor.

Case No. 22-51110 MEH

Chapter 13

Order After Video Hearing

Date: January 10, 2023

Time: 3:00 p.m.

ORDER DENYING MOTION TO EXTEND THE AUTOMATIC STAY

On January 6, 2023, Debtor filed an *Ex Parte Motion to Set Hearing for Extension of the Automatic Stay* (Dkt. # 25). Debtor's chapter 13 case was filed on December 9, 2022, with the stay to expire on January 8, 2023. The court allowed Debtor's request to set a hearing on shortened time and extended the stay through January 10, 2023 (Dkt. # 34). On January 9, 2023, secured creditor Douglas Sykes ("Creditor") filed an opposition to Debtor's request to extend the stay (Dkt. # 38). On January 10, 2023, the court held a hearing on Debtor's request.

Appearances were as stated on the record. For the reasons set forth herein, Debtor's request to extend the stay is denied.

11 U.S.C. § 362(c)(3)(A) limits the duration of the automatic stay for a debtor with a case dismissed within the preceding year of the debtor's most recent bankruptcy case. A debtor may extend the automatic stay in certain circumstances, and upon a showing that the

1 later case was filed in good faith. *In re Castaneda*, 342 B.R. 90, 93 (Bankr. S.D. Cal. 2006).
2 Section 362(c)(3)(C) provides that a case is presumptively filed in bad faith as to all creditors
3 if “there has not been a substantial change in the financial or personal affairs of the debtor
4 since the dismissal of the next most previous case under chapter 7, 11, or 13 or any other
5 reason to conclude that the later case will be concluded.”

6 Creditor Sykes, as the opponent to the motion, has the burden to establish the
7 presumption of bad faith. If the presumption of bad faith arises, Debtor must rebut the
8 presumption by clear and convincing evidence to the contrary.

9 The first presumption of bad faith arises pursuant to § 362(c)(3)(C)(i)(III). This
10 section provides a case is presumptively filed in bad faith if there has not been a substantial
11 change in the debtor's financial or personal affairs since dismissal of the prior case. Creditor
12 asserts that Debtor’s circumstances have not changed since the dismissal of Debtor’s first
13 bankruptcy case on November 10, 2022, or the filing of Debtor’s current case. In paragraph 7
14 of his Declaration, Debtor claims there was a substantial change in the circumstances from his
15 prior case because he is “now fully aware of all the deadlines in this current case...and is
16 retaining an attorney.” Debtor’s Declaration (“Declaration”) (Dkt. # 26). To the contrary,
17 Debtor’s failure to file a petition using the correct form, failure to submit schedules despite
18 obtaining an initial extension, and request for ex parte relief when the motion to extend the
19 automatic stay is heard on 14 days’ notice indicate that Debtor is not aware of all the
20 deadlines in this case.

21 A second presumption of bad faith arises under § 362(c)(3)(C)(i)(III)(bb)—if there is
22 any other reason to conclude Debtor’s case under chapter 13 will not result in a confirmed
23 plan that will be fully performed. Debtor’s only support for his position is that he “[believes]
24 that [his] current case will result in a confirmed plan that will be fully performed.”
25 Declaration ¶ 7.

26 As such, Creditor has met his burden to establish the presumption of bad faith.
27 Debtor’s singular statement in his Declaration does not address why, or how, any of his
28 personal or financial circumstances have changed since dismissal of his prior case on

1 November 10, 2022. In addition, mere statements by a movant do not carry evidentiary
2 weight.

3 Debtor's actions in his current bankruptcy case provide the court with reason to doubt
4 Debtor's case will result in a confirmed, fully performed plan. At the outset, Debtor filed a
5 skeletal petition and only identified two creditors. Debtor did not list Creditor in the creditor
6 matrix, despite Creditor's pending foreclosure sale that Debtor seeks to have stayed. In
7 addition, Debtor has yet to file missing, required documents to proceed in his case. Debtor's
8 subjective belief and statement that his case will result in plan confirmation and full
9 performance is insufficient.

10 In the absence of clear and convincing evidence to rebut the presumption of bad faith,
11 I find that an extension of the automatic stay is inappropriate under 11 U.S.C. § 362(c)(3)(B).
12 Accordingly, Debtor's request to extend the stay is DENIED.

13 IT IS SO ORDERED.

14
15 **END OF ORDER**
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COURT SERVICE LIST

Via ECF:

All ECF Recipients

Exhibit “P”

1 Y. Roger Yu
2 115 College Ave,
3 Mountain View, CA 94040
4 yrogeryumountainview@gmail.com

5 Plaintiff in Pro Per

6 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
7 **SANTA CLARA COUNTY**

8 Y. Roger Yu, trustee of The 115 College
9 Avenue Trust,

10 Plaintiff,

11 v.

12 Dougals Sykes, an individual, and Does
13 1-50, inclusive,

14 Defendants.

Case No.:

23CV409727

[PROPOSED] ORDER

15
16
17
18 The application for a Temporary Restraining Order came on before the undersigned on
19 January 10, 2023 in Department 12 of the above-captioned court.

20 Based on the Application, Points and Authorities, and supporting declarations in the
21 moving papers, and good cause having been shown, the Court finds as follows:

22 **ORDER TO SHOW CAUSE**

23 ~~TO DEFENDANTS AND THEIR COUNSEL OF RECORD, You are ordered to appear~~
24 ~~on _____, 2023 at _____ am/pm in Dept _____ of this Court located at _____~~
25 ~~_____, to show cause as to why a preliminary injunction should~~
26 ~~not be issued enjoining the sale of the property located at 115 College Avenue, Mountain View,~~
27 ~~CA 94040.~~

1 This Order to Show Cause and supporting papers shall be served on Defendant no later
2 than _____ by facsimile (or _____). Proof of such service shall
3 be filed and delivered to the Court by no later than _____. Any Opposition papers by
4 Defendant shall be filed and served on Plaintiff by no later than _____ by
5 _____. Any Reply by Plaintiff shall be filed and served by no later than
6 _____. Email or facsimile service of these documents is permitted.

7 **IT IS SO ORDERED.**

8 Dated: _____

9 _____
10 Honorable Superior Court Judge

11 **TEMPORARY RESTRAINING ORDER**

12 Pending hearing on the above Order to Show Cause, Defendants, their employees,
13 agents and/or any other person or entity acting with them or on their behalf are restrained and
14 enjoined from the sale of the property located at 115 College Avenue, Mountain View, CA
15 94040. Plaintiff's request is denied. There is no proof of service and there is
16 no showing of a likelihood of success on the merits. The court notes that
there is a related matter of 22CV404291, Ben Yu v. Entra Default Sol., LLC.

17 **IT IS SO ORDERED.**

18 Dated: January 10, 2023

19 _____
20 Honorable Superior Court Judge
21 Carrie Zepeda
22
23
24
25
26
27
28

Exhibit “Q”

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

Rene C. Davidson Courthouse

Harry Yu

Plaintiff/Petitioner(s)

VS.

Entra Default Solutions, LLC et al

Defendant/Respondent(s)

No. 22CV019563

Date: 12/22/2022

Time: 2:06 PM

Dept: 25

Judge: James Reilly

ORDER re: Ruling on Submitted Matter

The Court, having taken the matter under submission on 12/21/2022, now rules as follows:

The Motion for Preliminary Injunction filed by on 10/14/2022 and Motion for Preliminary Injunction filed by Harry Yu on 12/02/2022 are Denied.

I. Background

A. Factual Background

This dispute concerns a pending foreclosure sale of a real property in Fremont, California that Plaintiff Harry Yu held in trust for Yintao Yu. (Yu Decl., Dec. 2, 2022, Ex. A.) On July 28, 2017, Yintao Yu created the 37591 Third Street Trust for the property, naming himself and Plaintiff as trustees. (Sykes Decl., Dec. 14, 2022, Exs. D, F.) Aside from these facts, the Court has no information about the terms of this declaration of trust.

On November 21, 2020, Yintao Yu signed an affidavit of change of trustee, removing Plaintiff as a trustee of the 37591 Third Street Trust and leaving Yintao Yu as the sole trustee. (*Id.* Ex. E.) Later that month, Defendant Sykes made a secured loan to Yintao Yu for \$210,00.00. (*Id.* Ex. B.) Yintao Yu took these actions with notifying Plaintiff. (Yu Decl., Dec. 2, 2022, ¶¶ 5–6.)

Almost two years later, on June 9, 2022, Defendant Entra Default Solutions, LLC recorded a notice of default and intent to conduct a foreclosure sale. (Sykes Decl., Oct. 26, 2022, Ex. E.) While this lawsuit was pending, Plaintiff also recorded an affidavit of change of trustee, renaming himself as trustee of the 36500 Alder Court Trust. (Yu Decl., Dec. 2, 2022, Ex. B.)

B. Procedural Background

On October 14, 2022, Plaintiff filed his complaint seeking, among other things, to enjoin Defendant Entra Default from selling the property. (Compl. 3:19–4:1.) Plaintiff also applied for a temporary restraining order and an order to show cause (OSC). (Pl.'s Appl. for TRO, Oct. 14, 2022.) The Court issued a temporary restraining order preventing Defendant Entra Default from proceeding with the foreclosure sale of the property. (TRO, Oct. 14, 2022.) The Court also issued an OSC for Defendant Entra Default to show why a preliminary injunction should not issue. (*Id.*)

At the first hearing, the Court continued the OSC because Plaintiff had not submitted evidence that he had personally served Defendant Entra Default with a copy of the OSC. (Order, Nov. 10, 2022, at 2.)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

Rene C. Davidson Courthouse

In early December 2022, Plaintiff amended his complaint, adding Douglas Sykes as a defendant (Am. Compl.), and filed a motion for a preliminary injunction (Pl's Mot. for Prelim. Inj.) On December 2, 2022, Plaintiff personally served Defendant Sykes through his attorney, Reilly Wilkinson (Proof of Serv. (Sykes), Dec. 7, 2022) and Defendant Entra Default through "Entra Default Solutions, LLC, a California Corporation." (Proof of Serv. (Entra Default), Dec. 7, 2022.) Defendants have appeared and oppose the OSC.

II. Legal Standard

"An injunction may be granted in the following cases: [¶] [w]hen it appears by the complaint or affidavits that the commission or continuance of some act during the litigation would produce waste, or great or irreparable injury, to a party to the action, [¶] [w]hen pecuniary compensation would not afford adequate relief, [¶] [or] [w]here it would be extremely difficult to ascertain the amount of compensation which would afford adequate relief." (Code Civ. Proc. § 526(a)(2), (4), (5).)

"On granting an injunction, the court . . . must require an undertaking on the part of the applicant to the effect that the applicant will pay to the party enjoined any damages, not exceeding an amount to be specified, the party may sustain by reason of the injunction, if the court finally decides that the applicant was not entitled to the injunction." (*Id.* § 529(a).)

III. Discussion

"[A]s a general matter, the question whether a preliminary injunction should be granted involves two interrelated factors: (1) the likelihood that the plaintiff will prevail on the merits, and (2) the relative balance of harms that is likely to result from the granting or denial of interim injunctive relief." (*White v. Davis* (2003) 30 Cal. 4th 528, 554.)

It is unlikely that Plaintiff will likely succeed on the merits of his cause of action for declaratory relief. Plaintiff only held title in his official capacity as trustee of the 37591 Third Street Trust, as indicated by the grant deed. Plaintiff has not identified any evidence to support his claim that he, personally, held any ownership interest in the property.

Further, the balance of harms favors denying a preliminary injunction. Although Plaintiff initially claimed to live in the property, this claim is now absent from his amended complaint and his declaration supporting this motion. Thus, Plaintiff is not facing an imminent foreclosure of his home, but rather loss of nonfungible property. Against this, the Court weighs the availability of monetary damages to Plaintiff, along with the financial harm that Defendants and Yintao Yu will suffer if the foreclosure must wait until this dispute is resolved. Accordingly, the Court finds that the balance of harms weighs in favor of Defendants.

IV. Order

A preliminary injunction will not issue.

In his filings, Defendant Sykes attached numerous documents, including court filings, to his declarations, rather than a request for judicial notice. Because these documents were improperly presented to the Court, they were not considered.

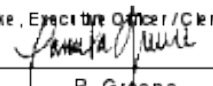
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

Rene C. Davidson Courthouse

Dated: 12/22/2022

A handwritten signature in black ink, appearing to read "Reilly", with a stylized, cursive script.

James Reilly / Judge

<p align="center">SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA</p>	<p align="center">Reserved for Clerk's File Stamp</p>
<p>COURTHOUSE ADDRESS: Rene C. Davidson Courthouse 1225 Fallon Street, Oakland, CA 94612</p>	<p align="center">FILED Superior Court of California County of Alameda 12/22/2022</p>
<p>PLAINTIFF/PETITIONER: Harry Yu</p>	<p>Chad Finke, Executive Officer / Clerk of the Court By:  Deputy</p>
<p>DEFENDANT/RESPONDENT: Entra Default Solutions, LLC et al</p>	<p align="center">P. Greene</p>
<p align="center">CERTIFICATE OF ELECTRONIC SERVICE CODE OF CIVIL PROCEDURE 1010.6</p>	<p>CASE NUMBER: 22CV019563</p>

I, the below named Executive Officer/Clerk of Court of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served one copy of the Order re: Ruling on Submitted Matter entered herein upon each party or counsel of record in the above entitled action, by electronically serving the document(s) from my place of business, in accordance with standard court practices.

Reilly D. Wilkinson
Scheer Law Group
rwilkinson@scheerlawgroup.com

Sarah Elizabeth Shapero
Shapero Law Firm
sarah@shaperolawfirm.com

Dated: 12/22/2022

Chad Finke, Executive Officer / Clerk of the Court

By:

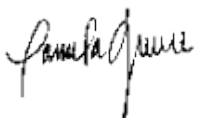

P. Greene, Deputy Clerk

Exhibit “R”

Fill in this information to identify your case:

United States Bankruptcy Court for the:

Northern District of California

Case number (if known):

Chapter you are filing under:

- ☐ Chapter 7
☐ Chapter 11
☐ Chapter 12
☒ Chapter 13

FILED

DEC 30 2022

U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

☐ Check if this is an
amended filing

Official Form 101

Voluntary Petition for Individuals Filing for Bankruptcy

12/22

The bankruptcy forms use *you* and *Debtor 1* to refer to a debtor filing alone. A married couple may file a bankruptcy case together—called a *joint case*—and in joint cases, these forms use *you* to ask for information from both debtors. For example, if a form asks, "Do you own a car," the answer would be yes if either debtor owns a car. When information is needed about the spouses separately, the form uses *Debtor 1* and *Debtor 2* to distinguish between them. In joint cases, one of the spouses must report information as *Debtor 1* and the other as *Debtor 2*. The same person must be *Debtor 1* in all of the forms.

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write your name and case number (if known). Answer every question.

Part 1: Identify Yourself

1. Your full name

Write the name that is on your government-issued picture identification (for example, your driver's license or passport).

Bring your picture identification to your meeting with the trustee.

About Debtor 1:

Harry

First name

Middle name

Yu

Last name

Suffix (Sr., Jr., II, III)

About Debtor 2 (Spouse Only in a Joint Case):

First name

Middle name

Last name

Suffix (Sr., Jr., II, III)

2. All other names you have used in the last 8 years

Include your married or maiden names and any assumed, trade names and *doing business as* names.

Do NOT list the name of any separate legal entity such as a corporation, partnership, or LLC that is not filing this petition.

First name

Middle name

Last name

First name

Middle name

Last name

Business name (if applicable)

Business name (if applicable)

First name

Middle name

Last name

First name

Middle name

Last name

Business name (if applicable)

Business name (if applicable)

3. Only the last 4 digits of your Social Security number or federal Individual Taxpayer Identification number (ITIN)

XXX - XX -

OR

9 XX - XX -

XXX - XX -

OR

9 XX - XX -

Debtor 1

Harry

First Name

Yu

Middle Name

Last Name

Case number (if known)

About Debtor 1:

4. Your Employer Identification Number (EIN), if any.

EIN

EIN

About Debtor 2 (Spouse Only in a Joint Case):

EIN

EIN

5. Where you live

37591 3rd St

Number Street

Fremont

City

CA

State

94536

ZIP Code

Alameda

County

If your mailing address is different from the one above, fill it in here. Note that the court will send any notices to you at this mailing address.

Number Street

P.O. Box

City

State

ZIP Code

If Debtor 2 lives at a different address:

Number Street

City

State

ZIP Code

County

If Debtor 2's mailing address is different from yours, fill it in here. Note that the court will send any notices to this mailing address.

Number Street

P.O. Box

City

State

ZIP Code

6. Why you are choosing this district to file for bankruptcy

Check one:

☒ Over the last 180 days before filing this petition, I have lived in this district longer than in any other district.

☐ I have another reason. Explain.
(See 28 U.S.C. § 1408.)

Check one:

☐ Over the last 180 days before filing this petition, I have lived in this district longer than in any other district.

☐ I have another reason. Explain.
(See 28 U.S.C. § 1408.)

Part 2: Tell the Court About Your Bankruptcy Case**7. The chapter of the Bankruptcy Code you are choosing to file under**

Check one. (For a brief description of each, see *Notice Required by 11 U.S.C. § 342(b) for Individuals Filing for Bankruptcy* (Form 1010)). Also, go to the top of page 1 and check the appropriate box.

- ☐ Chapter 7
- ☐ Chapter 11
- ☐ Chapter 12
- ☒ Chapter 13

8. How you will pay the fee

- ☐ I will pay the entire fee when I file my petition. Please check with the clerk's office in your local court for more details about how you may pay. Typically, if you are paying the fee yourself, you may pay with cash, cashier's check, or money order. If your attorney is submitting your payment on your behalf, your attorney may pay with a credit card or check with a pre-printed address.
- ☒ I need to pay the fee in installments. If you choose this option, sign and attach the *Application for Individuals to Pay The Filing Fee in Installments* (Official Form 103A).
- ☐ I request that my fee be waived (You may request this option only if you are filing for Chapter 7. By law, a judge may, but is not required to, waive your fee, and may do so only if your income is less than 150% of the official poverty line that applies to your family size and you are unable to pay the fee in installments). If you choose this option, you must fill out the *Application to Have the Chapter 7 Filing Fee Waived* (Official Form 103B) and file it with your petition.

9. Have you filed for bankruptcy within the last 8 years?

- ☒ No
- ☐ Yes. District _____ When _____ Case number _____
MM / DD / YYYY
- District _____ When _____ Case number _____
MM / DD / YYYY
- District _____ When _____ Case number _____
MM / DD / YYYY

10. Are any bankruptcy cases pending or being filed by a spouse who is not filing this case with you, or by a business partner, or by an affiliate?

- ☒ No
- ☐ Yes. Debtor _____ Relationship to you _____
District _____ When _____ Case number, if known _____
MM / DD / YYYY
- Debtor _____ Relationship to you _____
District _____ When _____ Case number, if known _____
MM / DD / YYYY

11. Do you rent your residence?

- ☒ No. Go to line 12.
- ☐ Yes. Has your landlord obtained an eviction judgment against you?
- ☐ No. Go to line 12.
- ☐ Yes. Fill out *Initial Statement About an Eviction Judgment Against You* (Form 101A) and file it as part of this bankruptcy petition.

Part 3: Report About Any Businesses You Own as a Sole Proprietor**12. Are you a sole proprietor of any full- or part-time business?**

A sole proprietorship is a business you operate as an individual, and is not a separate legal entity such as a corporation, partnership, or LLC.

If you have more than one sole proprietorship, use a separate sheet and attach it to this petition.

☒ No. Go to Part 4.

☐ Yes. Name and location of business

Name of business, if any

Number Street

City

State

ZIP Code

Check the appropriate box to describe your business:

☐ Health Care Business (as defined in 11 U.S.C. § 101(27A))

☐ Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))

☐ Stockbroker (as defined in 11 U.S.C. § 101(53A))

☐ Commodity Broker (as defined in 11 U.S.C. § 101(6))

☐ None of the above
13. Are you filing under Chapter 11 of the Bankruptcy Code, and are you a small business debtor or a debtor as defined by 11 U.S.C. § 1182(1)?

For a definition of *small business debtor*, see 11 U.S.C. § 101(51D).

If you are filing under Chapter 11, the court must know whether you are a small business debtor or a debtor choosing to proceed under Subchapter V so that it can set appropriate deadlines. If you indicate that you are a small business debtor or you are choosing to proceed under Subchapter V, you must attach your most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).

☒ No. I am not filing under Chapter 11.

☐ No. I am filing under Chapter 11, but I am NOT a small business debtor according to the definition in the Bankruptcy Code.

☐ Yes. I am filing under Chapter 11, I am a small business debtor according to the definition in the Bankruptcy Code, and I do not choose to proceed under Subchapter V of Chapter 11.

☐ Yes. I am filing under Chapter 11, I am a debtor according to the definition in § 1182(1) of the Bankruptcy Code, and I choose to proceed under Subchapter V of Chapter 11.

Debtor 1

Harry

First Name

Middle Name

Yu

Last Name

Case number (if known)

Part 4:

Report if You Own or Have Any Hazardous Property or Any Property That Needs Immediate Attention

14. Do you own or have any property that poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety? Or do you own any property that needs immediate attention?

☒ No

☐ Yes. What is the hazard?

If immediate attention is needed, why is it needed?

For example, do you own perishable goods, or livestock that must be fed, or a building that needs urgent repairs?

Where is the property?

Number

Street

City

State

ZIP Code

Part 5: Explain Your Efforts to Receive a Briefing About Credit Counseling**15. Tell the court whether you have received a briefing about credit counseling.**

The law requires that you receive a briefing about credit counseling before you file for bankruptcy. You must truthfully check one of the following choices. If you cannot do so, you are not eligible to file.

If you file anyway, the court can dismiss your case, you will lose whatever filing fee you paid, and your creditors can begin collection activities again.

About Debtor 1:

You must check one:

- ☒ I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, and I received a certificate of completion.

Attach a copy of the certificate and the payment plan, if any, that you developed with the agency.

- ☐ I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, but I do not have a certificate of completion.

Within 14 days after you file this bankruptcy petition, you MUST file a copy of the certificate and payment plan, if any.

- ☐ I certify that I asked for credit counseling services from an approved agency, but was unable to obtain those services during the 7 days after I made my request, and exigent circumstances merit a 30-day temporary waiver of the requirement.

To ask for a 30-day temporary waiver of the requirement, attach a separate sheet explaining what efforts you made to obtain the briefing, why you were unable to obtain it before you filed for bankruptcy, and what exigent circumstances required you to file this case.

Your case may be dismissed if the court is dissatisfied with your reasons for not receiving a briefing before you filed for bankruptcy.

If the court is satisfied with your reasons, you must still receive a briefing within 30 days after you file. You must file a certificate from the approved agency, along with a copy of the payment plan you developed, if any. If you do not do so, your case may be dismissed.

Any extension of the 30-day deadline is granted only for cause and is limited to a maximum of 15 days.

- ☐ I am not required to receive a briefing about credit counseling because of:

- ☐ **Incapacity.** I have a mental illness or a mental deficiency that makes me incapable of realizing or making rational decisions about finances.

- ☐ **Disability.** My physical disability causes me to be unable to participate in a briefing in person, by phone, or through the internet, even after I reasonably tried to do so.

- ☐ **Active duty.** I am currently on active military duty in a military combat zone.

If you believe you are not required to receive a briefing about credit counseling, you must file a motion for waiver of credit counseling with the court.

About Debtor 2 (Spouse Only in a Joint Case):

You must check one:

- ☐ I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, and I received a certificate of completion.

Attach a copy of the certificate and the payment plan, if any, that you developed with the agency.

- ☐ I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, but I do not have a certificate of completion.

Within 14 days after you file this bankruptcy petition, you MUST file a copy of the certificate and payment plan, if any.

- ☐ I certify that I asked for credit counseling services from an approved agency, but was unable to obtain those services during the 7 days after I made my request, and exigent circumstances merit a 30-day temporary waiver of the requirement.

To ask for a 30-day temporary waiver of the requirement, attach a separate sheet explaining what efforts you made to obtain the briefing, why you were unable to obtain it before you filed for bankruptcy, and what exigent circumstances required you to file this case.

Your case may be dismissed if the court is dissatisfied with your reasons for not receiving a briefing before you filed for bankruptcy.

If the court is satisfied with your reasons, you must still receive a briefing within 30 days after you file. You must file a certificate from the approved agency, along with a copy of the payment plan you developed, if any. If you do not do so, your case may be dismissed.

Any extension of the 30-day deadline is granted only for cause and is limited to a maximum of 15 days.

- ☐ I am not required to receive a briefing about credit counseling because of:

- ☐ **Incapacity.** I have a mental illness or a mental deficiency that makes me incapable of realizing or making rational decisions about finances.

- ☐ **Disability.** My physical disability causes me to be unable to participate in a briefing in person, by phone, or through the internet, even after I reasonably tried to do so.

- ☐ **Active duty.** I am currently on active military duty in a military combat zone.

If you believe you are not required to receive a briefing about credit counseling, you must file a motion for waiver of credit counseling with the court.

Debtor 1

Harry

First Name

Middle Name

Yu

Last Name

Case number (if known)

Part 6: Answer These Questions for Reporting Purposes**16. What kind of debts do you have?****16a. Are your debts primarily consumer debts?** *Consumer debts* are defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose."

- ☐ No. Go to line 16b.
☒ Yes. Go to line 17.

16b. Are your debts primarily business debts? *Business debts* are debts that you incurred to obtain money for a business or investment or through the operation of the business or investment.

- ☐ No. Go to line 16c.
☐ Yes. Go to line 17.

16c. State the type of debts you owe that are not consumer debts or business debts.**17. Are you filing under Chapter 7?**☒ No. I am not filing under Chapter 7. Go to line 18.

Do you estimate that after any exempt property is excluded and administrative expenses are paid that funds will be available for distribution to unsecured creditors?

- ☐ Yes. I am filing under Chapter 7. Do you estimate that after any exempt property is excluded and administrative expenses are paid that funds will be available to distribute to unsecured creditors?
- ☐ No
☐ Yes

18. How many creditors do you estimate that you owe?

- | | | |
|--|--|--|
| <input checked="" type="checkbox"/> 1-49 | <input type="checkbox"/> 1,000-5,000 | <input type="checkbox"/> 25,001-50,000 |
| <input type="checkbox"/> 50-99 | <input type="checkbox"/> 5,001-10,000 | <input type="checkbox"/> 50,001-100,000 |
| <input type="checkbox"/> 100-199 | <input type="checkbox"/> 10,001-25,000 | <input type="checkbox"/> More than 100,000 |
| <input type="checkbox"/> 200-999 | | |

19. How much do you estimate your assets to be worth?

- | | | |
|---|--|--|
| <input type="checkbox"/> \$0-\$50,000 | <input type="checkbox"/> \$1,000,001-\$10 million | <input type="checkbox"/> \$500,000,001-\$1 billion |
| <input type="checkbox"/> \$50,001-\$100,000 | <input type="checkbox"/> \$10,000,001-\$50 million | <input type="checkbox"/> \$1,000,000,001-\$10 billion |
| <input checked="" type="checkbox"/> \$100,001-\$500,000 | <input type="checkbox"/> \$50,000,001-\$100 million | <input type="checkbox"/> \$10,000,000,001-\$50 billion |
| <input type="checkbox"/> \$500,001-\$1 million | <input type="checkbox"/> \$100,000,001-\$500 million | <input type="checkbox"/> More than \$50 billion |

20. How much do you estimate your liabilities to be?

- | | | |
|---|--|--|
| <input type="checkbox"/> \$0-\$50,000 | <input type="checkbox"/> \$1,000,001-\$10 million | <input type="checkbox"/> \$500,000,001-\$1 billion |
| <input type="checkbox"/> \$50,001-\$100,000 | <input type="checkbox"/> \$10,000,001-\$50 million | <input type="checkbox"/> \$1,000,000,001-\$10 billion |
| <input checked="" type="checkbox"/> \$100,001-\$500,000 | <input type="checkbox"/> \$50,000,001-\$100 million | <input type="checkbox"/> \$10,000,000,001-\$50 billion |
| <input type="checkbox"/> \$500,001-\$1 million | <input type="checkbox"/> \$100,000,001-\$500 million | <input type="checkbox"/> More than \$50 billion |

Part 7: Sign Below**For you**

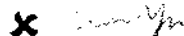
I have examined this petition, and I declare under penalty of perjury that the information provided is true and correct.

If I have chosen to file under Chapter 7, I am aware that I may proceed, if eligible, under Chapter 7, 11, 12, or 13 of title 11, United States Code. I understand the relief available under each chapter, and I choose to proceed under Chapter 7.

If no attorney represents me and I did not pay or agree to pay someone who is not an attorney to help me fill out this document, I have obtained and read the notice required by 11 U.S.C. § 342(b).

I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.

I understand making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$250,000, or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.



Signature of Debtor 1



Signature of Debtor 2

Executed on 12/30/2022

MM / DD / YYYY

Executed on

MM / DD / YYYY

Debtor 1

Harry

First Name

Middle Name

Yu

Last Name

Case number (if known)

For your attorney, if you are represented by one

If you are not represented by an attorney, you do not need to file this page.

I, the attorney for the debtor(s) named in this petition, declare that I have informed the debtor(s) about eligibility to proceed under Chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each chapter for which the person is eligible. I also certify that I have delivered to the debtor(s) the notice required by 11 U.S.C. § 342(b) and, in a case in which § 707(b)(4)(D) applies, certify that I have no knowledge after an inquiry that the information in the schedules filed with the petition is incorrect.

X

Signature of Attorney for Debtor

Date

MM / DD / YYYY

Printed name

Firm name

Number Street

City

State

ZIP Code

Contact phone

Email address

Bar number

State

For you if you are filing this bankruptcy without an attorney

If you are represented by an attorney, you do not need to file this page.

The law allows you, as an individual, to represent yourself in bankruptcy court, but **you should understand that many people find it extremely difficult to represent themselves successfully. Because bankruptcy has long-term financial and legal consequences, you are strongly urged to hire a qualified attorney.**

To be successful, you must correctly file and handle your bankruptcy case. The rules are very technical, and a mistake or inaction may affect your rights. For example, your case may be dismissed because you did not file a required document, pay a fee on time, attend a meeting or hearing, or cooperate with the court, case trustee, U.S. trustee, bankruptcy administrator, or audit firm if your case is selected for audit. If that happens, you could lose your right to file another case, or you may lose protections, including the benefit of the automatic stay.

You must list all your property and debts in the schedules that you are required to file with the court. Even if you plan to pay a particular debt outside of your bankruptcy, you must list that debt in your schedules. If you do not list a debt, the debt may not be discharged. If you do not list property or properly claim it as exempt, you may not be able to keep the property. The judge can also deny you a discharge of all your debts if you do something dishonest in your bankruptcy case, such as destroying or hiding property, falsifying records, or lying. Individual bankruptcy cases are randomly audited to determine if debtors have been accurate, truthful, and complete. **Bankruptcy fraud is a serious crime; you could be fined and imprisoned.**

If you decide to file without an attorney, the court expects you to follow the rules as if you had hired an attorney. The court will not treat you differently because you are filing for yourself. To be successful, you must be familiar with the United States Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the local rules of the court in which your case is filed. You must also be familiar with any state exemption laws that apply.

Are you aware that filing for bankruptcy is a serious action with long-term financial and legal consequences?

- ☐ No
☒ Yes

Are you aware that bankruptcy fraud is a serious crime and that if your bankruptcy forms are inaccurate or incomplete, you could be fined or imprisoned?

- ☐ No
☒ Yes

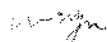
Did you pay or agree to pay someone who is not an attorney to help you fill out your bankruptcy forms?

- ☒ No
☐ Yes. Name of Person _____

Attach *Bankruptcy Petition Preparer's Notice, Declaration, and Signature* (Official Form 119).

By signing here, I acknowledge that I understand the risks involved in filing without an attorney. I have read and understood this notice, and I am aware that filing a bankruptcy case without an attorney may cause me to lose my rights or property if I do not properly handle the case.

X



Signature of Debtor 1

Date 12/30/2022
 MM / DD / YYYY

Contact phone (510) 270-5578

Cell phone (510) 270-5578

Email address _____

X

Signature of Debtor 2

Date _____
 MM / DD / YYYY

Contact phone _____

Cell phone _____

Email address _____

BANKRUPTCY COURT

RECEIVED
DEC 30 2022
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

INSPECTED
DEC 30 2022
U.S. MARSHAL

JERRY YU

Name: _____

Case #: _____

Exhibit “S”

**UNITED STATES BANKRUPTCY COURT
California Northern Bankruptcy Court**

In Re: Harry Yu
Debtor(s)

Case No.: 22-41324 WJL 13
Chapter: 13

**ORDER FOR INDIVIDUALS IN CHAPTER 13 CASE TO
FILE REQUIRED DOCUMENTS AND NOTICE OF AUTOMATIC DISMISSAL**

The debtor(s) named above failed to file the documents listed below when the case was commenced:

- ☒ Summary of Your Assets and Liabilities and Certain Statistical Information (Official Form 106Sum)
- ☒ Declaration About an Individual Debtor's Schedules (Official Form 106Dec)
- ☒ Schedule A/B: Property (Official Form 106A/B)
- ☒ Schedule C: The Property You Claim as Exempt (Official Form 106C)
- ☒ Schedule D: Creditors Who Have Claims Secured by Property (Official Form 106D)
- ☒ Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 106E/F)
- ☒ Schedule G: Executory Contracts and Unexpired Leases (Official Form 106G)
- ☒ Schedule H: Your Codebtors (Official Form 106H)
- ☒ Schedule I: Your Income (Official Form 106I)
- ☒ Schedule J: Your Expenses (Official Form 106J)
- ☒ Statement of Financial Affairs for Individuals Filing for Bankruptcy (Official Form 107)
- ☒ Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period (122C-1)
- ☒ Chapter 13 Calculation of Your Disposable Income (122C-2)
- ☒ Chapter 13 Plan

IT IS HEREBY ORDERED that unless, within 14 days of the petition date, the debtor(s) file each document listed above, the court may dismiss this case without further notice or a hearing. 11 U.S.C. § 521(a), Fed. R. Bankr. P. 1007(b)(1), (c).

The debtor(s) may request an extension of time to file the documents noted above, but must do so before 14 days from the petition date, or the expiration of any extension previously granted. The request may be filed electronically, mailed, or delivered in person to the address stated below, but it must be received by the court before the 14 days or any extension previously granted have expired. If an extension is granted and the documents are not filed, the case may be dismissed.

IT IS FURTHER ORDERED the debtor(s) must provide payment advices directly to the trustee at least 7 days prior to the first date set for the meeting of creditors under 11 U.S.C. § 341. The debtor(s) is referred to the court's website for further details: <https://www.canb.uscourts.gov/order/general-order-32-amended-payment-advices>. 11 U.S.C. § 521(a)(1)(B)(iv), Fed. R. Bankr. P. 1007(b)(1), (c).

Mailing Address:
U.S. Bankruptcy Court
1300 Clay Street, Suite 300
Oakland, CA 94612

In person filing via Drop Box:
U.S. Bankruptcy Court
1300 Clay Street, 2nd floor
Oakland, CA 94612

Dated: 12/30/22

By the Court:

William J. Lafferty
United States Bankruptcy Judge

Notice Recipients

District/Off: 0971-4
Case: 22-41324

User: admin
Form ID: OFRDI

Date Created: 12/30/2022
Total: 3

Recipients of Notice of Electronic Filing:

ust	Office of the U.S. Trustee/Oak	USTPRegion17.OA.ECF@usdoj.gov
tr	Martha G. Bronitsky	13trustee@oak13.com

TOTAL: 2

Recipients submitted to the BNC (Bankruptcy Noticing Center):

db	Harry Yu	37591 3rd St	Fremont, CA 94536
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TOTAL: 1

Exhibit “T”

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

Rene C. Davidson Courthouse

Brian Yu
Plaintiff/Petitioner(s)
VS.
Entra Default Solutions, LLC
Defendant/Respondent(s)

No. 22CV019561

Date: 12/22/2022

Time: 2:03 PM

Dept: 25

Judge: James Reilly

ORDER re: Ruling on Submitted Matter

The Court, having taken the matter under submission on 12/21/2022, now rules as follows:

The Motion for Preliminary Injunction filed by Brian Yu on 12/02/2022 is Denied.

I. Background

A. Factual Background

This dispute concerns a pending foreclosure sale of a real property in Fremont, California that Plaintiff Brian Yu held in trust for Yintao Yu. (Yu Decl., Dec. 2, 2022, Ex. A.) On July 28, 2017, Yintao Yu created the 36500 Alder Court Trust for the property, naming himself and Plaintiff as trustees. (Sykes Decl., Dec. 14, 2022, Ex. D.) As trustees, Yintao Yu would have “[t]he power to borrow money and encumber the trust property with a deed of trust of mortgage, and execute deeds of trust,” among other things (*id.* (Part 6.A.)), while Plaintiff would only have the “power to manage trust property, including the power to lease or grant options to lease the property, and to make repairs or alterations.” (*Id.* (Part 6.B.)) Further, the declaration of trust specified that “[Yintao Yu] may amend or revoke this trust at any time, without notifying any beneficiary or trustee.” (*Id.* (Part 4.A.))

But, on November 12, 2020, Yintao Yu signed an affidavit of change of trustee, removing Plaintiff as a trustee of the 36500 Alder Court Trust and leaving Yintao Yu as the sole trustee. (Sykes Decl., Dec. 14, 2022, Ex. F.) Later that month, Defendant Sykes made a secured loan to Yintao Yu for \$307,000.00. (*Id.* Ex. B.) Yintao Yu took these actions with notifying Plaintiff. (Yu Decl., Dec. 2, 2022, ¶¶ 5–6.)

Almost two years later, on June 9, 2022, Defendant Entra Default Solutions, LLC recorded a notice of default and intent to conduct a foreclosure sale. (Sykes Decl., Nov. 3, 2022, Ex. P.) While this lawsuit was pending, Plaintiff also recorded affidavit of change of trustee, renaming himself as trustee of the 36500 Alder Court Trust. (Yu Decl., Dec. 2, 2022, Ex. B.)

B. Procedural Background

On October 14, 2022, Plaintiff filed his complaint seeking, among other things, to enjoin Defendant Entra Default from selling the property. (Compl. 3:19–4:1.) Plaintiff also applied for a temporary restraining order and an order to show cause (OSC). (Pl.’s Appl. for TRO, Oct. 14, 2022.) The Court issued a temporary restraining order preventing Defendant from proceeding with the foreclosure sale of the property. (TRO, Oct. 17, 2022.) The Court also issued an OSC

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

Rene C. Davidson Courthouse

for Defendant Entra Default to show why a preliminary injunction should not issue. (*Id.*)

At the first hearing, the Court continued the OSC because Plaintiff had not submitted evidence that he had personally served Defendant Entra Default with a copy of the OSC. (Order, Nov. 10, 2022, at 2.)

In early December 2022, Plaintiff amended his complaint, adding Douglas Sykes as a defendant (Am. Compl.), and filed a motion for a preliminary injunction (Pl's Mot. for Prelim. Inj.). On December 2, 2022, Plaintiff personally served Defendant Sykes through his attorney, Reilly Wilkinson (Proof of Serv. (Sykes), Dec. 7, 2022) and Defendant Entra Default through "Entra Default Solutions, LLC, a California Corporation." (Proof of Serv. (Entra Default), Dec. 7, 2022.) Defendants have appeared and oppose the OSC.

II. Legal Standard

"An injunction may be granted in the following cases: [¶] [w]hen it appears by the complaint or affidavits that the commission or continuance of some act during the litigation would produce waste, or great or irreparable injury, to a party to the action, [¶] [w]hen pecuniary compensation would not afford adequate relief, [¶] [or] [w]here it would be extremely difficult to ascertain the amount of compensation which would afford adequate relief." (Code Civ. Proc. § 526(a)(2), (4), (5).)

"On granting an injunction, the court . . . must require an undertaking on the part of the applicant to the effect that the applicant will pay to the party enjoined any damages, not exceeding an amount to be specified, the party may sustain by reason of the injunction, if the court finally decides that the applicant was not entitled to the injunction." (*Id.* § 529(a).)

III. Discussion

"[A]s a general matter, the question whether a preliminary injunction should be granted involves two interrelated factors: (1) the likelihood that the plaintiff will prevail on the merits, and (2) the relative balance of harms that is likely to result from the granting or denial of interim injunctive relief." (*White v. Davis* (2003) 30 Cal. 4th 528, 554.)

It is unlikely that Plaintiff will likely succeed on the merits of his cause of action for declaratory relief. First, Plaintiff only held title in his official capacity as trustee of the 36500 Alder Court Trust, as indicated by the declaration of trust and the grant deed. Plaintiff has not identified any evidence to support his claim that he, personally, held any ownership interest in the property. Second, Plaintiff's power as a trustee were restricted to property management. Plaintiff has not identified any evidence that his consent was necessary for Yintau Yu to encumber the property with a mortgage. Finally, Yintau Yu seems to have exercised his discretion to remove Plaintiff on November 12, 2020, and Plaintiff may no longer be a trustee of the 36500 Alder Court Trust.

Further, the balance of harms favors denying a preliminary injunction. Although Plaintiff initially claimed to live in the property, this claim is now absent from his amended complaint and his declaration supporting this motion. Thus, Plaintiff is not facing an imminent foreclosure of his home, but rather loss of nonfungible property. Against this, the Court weighs the availability of monetary damages to Plaintiff, along with the financial harm that Defendants and Yintao Yu will suffer if the foreclosure must wait until this dispute is resolved. Accordingly, the Court finds

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

Rene C. Davidson Courthouse

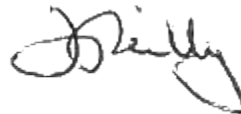
that the balance of harms weighs in favor of Defendants.

IV. Order

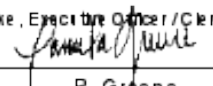
A preliminary injunction will not issue.

In his filings, Defendant Sykes attached numerous documents, including court filings, to his declarations, rather than a request for judicial notice. Because these documents were improperly presented to the Court, they were not considered.

Dated: 12/22/2022

A handwritten signature in black ink, appearing to read 'J. Reilly', with a stylized, cursive script.

James Reilly / Judge

SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA		Reserved for Clerk's File Stamp
COURTHOUSE ADDRESS: Rene C. Davidson Courthouse 1225 Fallon Street, Oakland, CA 94612		FILED Superior Court of California County of Alameda 12/22/2022 Chad Finke, Executive Officer / Clerk of the Court By:  Deputy P. Greene
PLAINTIFF/PETITIONER: Brian Yu		
DEFENDANT/RESPONDENT: Entra Default Solutions, LLC		
CERTIFICATE OF ELECTRONIC SERVICE CODE OF CIVIL PROCEDURE 1010.6		CASE NUMBER: 22CV019561

I, the below named Executive Officer/Clerk of Court of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served one copy of the Order re: Ruling on Submitted Matter entered herein upon each party or counsel of record in the above entitled action, by electronically serving the document(s) from my place of business, in accordance with standard court practices.

Reilly D. Wilkinson
Scheer Law Group
rwilkinson@scheerlawgroup.com

Sarah Elizabeth Shapero
Shapero Law Firm
sarah@shaperolawfirm.com

Dated: 12/22/2022

Chad Finke, Executive Officer / Clerk of the Court

By:

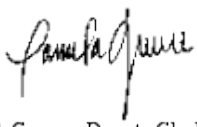

P. Greene, Deputy Clerk

Exhibit “U”

Fill in this information to identify your case:

United States Bankruptcy Court for the:

Northern District of California

Case number (if known):

Chapter you are filing under:

☐ Chapter 7

☐ Chapter 11

☐ Chapter 12

☒ Chapter 13

FILED
DEC 29 2022
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

☐ Check if this is an amended filing

Official Form 101

Voluntary Petition for Individuals Filing for Bankruptcy

12/22

The bankruptcy forms use *you* and *Debtor 1* to refer to a debtor filing alone. A married couple may file a bankruptcy case together—called a *joint case*—and in joint cases, these forms use *you* to ask for information from both debtors. For example, if a form asks, "Do you own a car," the answer would be *yes* if either debtor owns a car. When information is needed about the spouses separately, the form uses *Debtor 1* and *Debtor 2* to distinguish between them. In joint cases, one of the spouses must report information as *Debtor 1* and the other as *Debtor 2*. The same person must be *Debtor 1* in all of the forms.

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write your name and case number (if known). Answer every question.

Part 1: Identify Yourself

	About Debtor 1:	About Debtor 2 (Spouse Only In a Joint Case):
1. Your full name Write the name that is on your government-issued picture identification (for example, your driver's license or passport). Bring your picture identification to your meeting with the trustee.	Brian First name Yu Middle name Last name Suffix (Sr., Jr., II, III)	 First name Middle name Last name Suffix (Sr., Jr., II, III)
2. All other names you have used in the last 8 years Include your married or maiden names and any assumed, trade names and <i>doing business as</i> names. Do NOT list the name of any separate legal entity such as a corporation, partnership, or LLC that is not filing this petition.	First name Middle name Last name First name Middle name Last name Business name (if applicable) Business name (if applicable)	First name Middle name Last name First name Middle name Last name Business name (if applicable) Business name (if applicable)
3. Only the last 4 digits of your Social Security number or federal Individual Taxpayer Identification number (ITIN)	XXX - XX - OR 9 XX - XX -	XXX - XX - OR 9 XX - XX -

Debtor 1

Brian

First Name

Middle Name

Yu

Last Name

Case number (if known)

About Debtor 1:

About Debtor 2 (Spouse Only in a Joint Case):

4. Your Employer Identification Number (EIN), if any.

EIN

EIN

EIN

EIN

5. Where you live

If Debtor 2 lives at a different address:

36500 Alder Ct

Number Street

Number Street

Fremont

CA

94536

City

State

ZIP Code

City

State

ZIP Code

Alameda

County

County

If your mailing address is different from the one above, fill it in here. Note that the court will send any notices to you at this mailing address.

If Debtor 2's mailing address is different from yours, fill it in here. Note that the court will send any notices to this mailing address.

Number Street

Number Street

P.O. Box

P.O. Box

City

State

ZIP Code

City

State

ZIP Code

6. Why you are choosing this district to file for bankruptcy

Check one:

☒ Over the last 180 days before filing this petition, I have lived in this district longer than in any other district.

☐ I have another reason. Explain.
(See 28 U.S.C. § 1408.)

Check one:

☐ Over the last 180 days before filing this petition, I have lived in this district longer than in any other district.

☐ I have another reason. Explain.
(See 28 U.S.C. § 1408.)

Part 2: Tell the Court About Your Bankruptcy Case**7. The chapter of the Bankruptcy Code you are choosing to file under**

Check one. (For a brief description of each, see *Notice Required by 11 U.S.C. § 342(b) for Individuals Filing for Bankruptcy* (Form 2010)). Also, go to the top of page 1 and check the appropriate box.

- ☐ Chapter 7
- ☐ Chapter 11
- ☐ Chapter 12
- ☒ Chapter 13

8. How you will pay the fee

☐ I will pay the entire fee when I file my petition. Please check with the clerk's office in your local court for more details about how you may pay. Typically, if you are paying the fee yourself, you may pay with cash, cashier's check, or money order. If your attorney is submitting your payment on your behalf, your attorney may pay with a credit card or check with a pre-printed address.

☒ I need to pay the fee in installments. If you choose this option, sign and attach the *Application for Individuals to Pay The Filing Fee in Installments* (Official Form 103A).

☐ I request that my fee be waived (You may request this option only if you are filing for Chapter 7. By law, a judge may, but is not required to, waive your fee, and may do so only if your income is less than 150% of the official poverty line that applies to your family size and you are unable to pay the fee in installments). If you choose this option, you must fill out the *Application to Have the Chapter 7 Filing Fee Waived* (Official Form 103B) and file it with your petition.

9. Have you filed for bankruptcy within the last 8 years?

☒ No

☐ Yes. District _____ When _____ Case number _____
MM / DD / YYYY

District _____ When _____ Case number _____
MM / DD / YYYY

District _____ When _____ Case number _____
MM / DD / YYYY

10. Are any bankruptcy cases pending or being filed by a spouse who is not filing this case with you, or by a business partner, or by an affiliate?

☒ No

☐ Yes. Debtor _____ Relationship to you _____
District _____ When _____ Case number, if known _____
MM / DD / YYYY

Debtor _____ Relationship to you _____
District _____ When _____ Case number, if known _____
MM / DD / YYYY

11. Do you rent your residence?

☒ No. Go to line 12.

☐ Yes. Has your landlord obtained an eviction judgment against you?

☐ No. Go to line 12.

☐ Yes. Fill out *Initial Statement About an Eviction Judgment Against You* (Form 101A) and file it as part of this bankruptcy petition.

Part 3: Report About Any Businesses You Own as a Sole Proprietor**12. Are you a sole proprietor of any full- or part-time business?**

A sole proprietorship is a business you operate as an individual, and is not a separate legal entity such as a corporation, partnership, or LLC.

If you have more than one sole proprietorship, use a separate sheet and attach it to this petition.

☒ No. Go to Part 4.

☐ Yes. Name and location of business

Name of business, if any

Number Street

City

State

ZIP Code

Check the appropriate box to describe your business:

- ☐ Health Care Business (as defined in 11 U.S.C. § 101(27A))
- ☐ Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- ☐ Stockbroker (as defined in 11 U.S.C. § 101(53A))
- ☐ Commodity Broker (as defined in 11 U.S.C. § 101(6))
- ☐ None of the above

13. Are you filing under Chapter 11 of the Bankruptcy Code, and are you a small business debtor or a debtor as defined by 11 U.S.C. § 1182(1)?

For a definition of *small business debtor*, see 11 U.S.C. § 101(51D).

If you are filing under Chapter 11, the court must know whether you are a small business debtor or a debtor choosing to proceed under Subchapter V so that it can set appropriate deadlines. If you indicate that you are a small business debtor or you are choosing to proceed under Subchapter V, you must attach your most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).

- ☒ No. I am not filing under Chapter 11.
- ☐ No. I am filing under Chapter 11, but I am NOT a small business debtor according to the definition in the Bankruptcy Code.
- ☐ Yes. I am filing under Chapter 11, I am a small business debtor according to the definition in the Bankruptcy Code, and I do not choose to proceed under Subchapter V of Chapter 11.
- ☐ Yes. I am filing under Chapter 11, I am a debtor according to the definition in § 1182(1) of the Bankruptcy Code, and I choose to proceed under Subchapter V of Chapter 11.

Debtor 1

Brian

First Name

Middle Name

Yu

Last Name

Case number (if known)

Part 4:

Report if You Own or Have Any Hazardous Property or Any Property That Needs Immediate Attention

14. Do you own or have any property that poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety? Or do you own any property that needs immediate attention?

For example, do you own perishable goods, or livestock that must be fed, or a building that needs urgent repairs?

☒ No

☐ Yes. What is the hazard?

If immediate attention is needed, why is it needed?

Where is the property?

Number

Street

City

State

ZIP Code

Part 5: Explain Your Efforts to Receive a Briefing About Credit Counseling**15. Tell the court whether you have received a briefing about credit counseling.**

The law requires that you receive a briefing about credit counseling before you file for bankruptcy. You must truthfully check one of the following choices. If you cannot do so, you are not eligible to file.

If you file anyway, the court can dismiss your case, you will lose whatever filing fee you paid, and your creditors can begin collection activities again.

About Debtor 1:

You must check one:

- ☒ I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, and I received a certificate of completion.
- Attach a copy of the certificate and the payment plan, if any, that you developed with the agency.
- ☐ I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, but I do not have a certificate of completion.
- Within 14 days after you file this bankruptcy petition, you **MUST** file a copy of the certificate and payment plan, if any.
- ☐ I certify that I asked for credit counseling services from an approved agency, but was unable to obtain those services during the 7 days after I made my request, and exigent circumstances merit a 30-day temporary waiver of the requirement.

To ask for a 30-day temporary waiver of the requirement, attach a separate sheet explaining what efforts you made to obtain the briefing, why you were unable to obtain it before you filed for bankruptcy, and what exigent circumstances required you to file this case.

Your case may be dismissed if the court is dissatisfied with your reasons for not receiving a briefing before you filed for bankruptcy.

If the court is satisfied with your reasons, you must still receive a briefing within 30 days after you file. You must file a certificate from the approved agency, along with a copy of the payment plan you developed, if any. If you do not do so, your case may be dismissed.

Any extension of the 30-day deadline is granted only for cause and is limited to a maximum of 15 days.

- ☐ I am not required to receive a briefing about credit counseling because of:
- ☐ **Incapacity.** I have a mental illness or a mental deficiency that makes me incapable of realizing or making rational decisions about finances.
- ☐ **Disability.** My physical disability causes me to be unable to participate in a briefing in person, by phone, or through the internet, even after I reasonably tried to do so.
- ☐ **Active duty.** I am currently on active military duty in a military combat zone.

If you believe you are not required to receive a briefing about credit counseling, you must file a motion for waiver of credit counseling with the court.

About Debtor 2 (Spouse Only in a Joint Case):

You must check one:

- ☐ I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, and I received a certificate of completion.
- Attach a copy of the certificate and the payment plan, if any, that you developed with the agency.
- ☐ I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, but I do not have a certificate of completion.
- Within 14 days after you file this bankruptcy petition, you **MUST** file a copy of the certificate and payment plan, if any.
- ☐ I certify that I asked for credit counseling services from an approved agency, but was unable to obtain those services during the 7 days after I made my request, and exigent circumstances merit a 30-day temporary waiver of the requirement.

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- ☐ **Incapacity.** I have a mental illness or a mental deficiency that makes me incapable of realizing or making rational decisions about finances.
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- ☐ **Active duty.** I am currently on active military duty in a military combat zone.

If you believe you are not required to receive a briefing about credit counseling, you must file a motion for waiver of credit counseling with the court.

Part 6: Answer These Questions for Reporting Purposes**16. What kind of debts do you have?****16a. Are your debts primarily consumer debts?** *Consumer debts* are defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose."

- ☐ No. Go to line 16b.
☒ Yes. Go to line 17.

16b. Are your debts primarily business debts? *Business debts* are debts that you incurred to obtain money for a business or investment or through the operation of the business or investment.

- ☐ No. Go to line 16c.
☐ Yes. Go to line 17.

16c. State the type of debts you owe that are not consumer debts or business debts.**17. Are you filing under Chapter 7?**☒ No. I am not filing under Chapter 7. Go to line 18.

Do you estimate that after any exempt property is excluded and administrative expenses are paid that funds will be available for distribution to unsecured creditors?

☐ Yes. I am filing under Chapter 7. Do you estimate that after any exempt property is excluded and administrative expenses are paid that funds will be available to distribute to unsecured creditors?

- ☐ No
☐ Yes

18. How many creditors do you estimate that you owe?

- ☒ 1-49
☐ 50-99
☐ 100-199
☐ 200-999

- ☐ 1,000-5,000
☐ 5,001-10,000
☐ 10,001-25,000

- ☐ 25,001-50,000
☐ 50,001-100,000
☐ More than 100,000

19. How much do you estimate your assets to be worth?

- ☐ \$0-\$50,000
☐ \$50,001-\$100,000
☐ \$100,001-\$500,000
☒ \$500,001-\$1 million

- ☐ \$1,000,001-\$10 million
☐ \$10,000,001-\$50 million
☐ \$50,000,001-\$100 million
☐ \$100,000,001-\$500 million

- ☐ \$500,000,001-\$1 billion
☐ \$1,000,000,001-\$10 billion
☐ \$10,000,000,001-\$50 billion
☐ More than \$50 billion

20. How much do you estimate your liabilities to be?

- ☐ \$0-\$50,000
☐ \$50,001-\$100,000
☐ \$100,001-\$500,000
☒ \$500,001-\$1 million

- ☐ \$1,000,001-\$10 million
☐ \$10,000,001-\$50 million
☐ \$50,000,001-\$100 million
☐ \$100,000,001-\$500 million

- ☐ \$500,000,001-\$1 billion
☐ \$1,000,000,001-\$10 billion
☐ \$10,000,000,001-\$50 billion
☐ More than \$50 billion

Part 7: Sign Below**For you**

I have examined this petition, and I declare under penalty of perjury that the information provided is true and correct.

If I have chosen to file under Chapter 7, I am aware that I may proceed, if eligible, under Chapter 7, 11, 12, or 13 of title 11, United States Code. I understand the relief available under each chapter, and I choose to proceed under Chapter 7.

If no attorney represents me and I did not pay or agree to pay someone who is not an attorney to help me fill out this document, I have obtained and read the notice required by 11 U.S.C. § 342(b).

I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.

I understand making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$250,000, or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

X Brian Yu

Signature of Debtor 1

Executed on 12/18/2022

MM / DD / YYYY

X

Signature of Debtor 2

Executed on

MM / DD / YYYY

Debtor 1

Brian

First Name

Middle Name

Yu

Last Name

Case number (if known)

For your attorney, if you are represented by one

If you are not represented by an attorney, you do not need to file this page.

I, the attorney for the debtor(s) named in this petition, declare that I have informed the debtor(s) about eligibility to proceed under Chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each chapter for which the person is eligible. I also certify that I have delivered to the debtor(s) the notice required by 11 U.S.C. § 342(b) and, in a case in which § 707(b)(4)(D) applies, certify that I have no knowledge after an inquiry that the information in the schedules filed with the petition is incorrect.

X

Signature of Attorney for Debtor

Date

MM / DD / YYYY

Printed name

Firm name

Number Street

City

State

ZIP Code

Contact phone

Email address

Bar number

State

For you if you are filing this bankruptcy without an attorney

If you are represented by an attorney, you do not need to file this page.

The law allows you, as an individual, to represent yourself in bankruptcy court, but **you should understand that many people find it extremely difficult to represent themselves successfully. Because bankruptcy has long-term financial and legal consequences, you are strongly urged to hire a qualified attorney.**

To be successful, you must correctly file and handle your bankruptcy case. The rules are very technical, and a mistake or inaction may affect your rights. For example, your case may be dismissed because you did not file a required document, pay a fee on time, attend a meeting or hearing, or cooperate with the court, case trustee, U.S. trustee, bankruptcy administrator, or audit firm if your case is selected for audit. If that happens, you could lose your right to file another case, or you may lose protections, including the benefit of the automatic stay.

You must list all your property and debts in the schedules that you are required to file with the court. Even if you plan to pay a particular debt outside of your bankruptcy, you must list that debt in your schedules. If you do not list a debt, the debt may not be discharged. If you do not list property or properly claim it as exempt, you may not be able to keep the property. The judge can also deny you a discharge of all your debts if you do something dishonest in your bankruptcy case, such as destroying or hiding property, falsifying records, or lying. Individual bankruptcy cases are randomly audited to determine if debtors have been accurate, truthful, and complete. **Bankruptcy fraud is a serious crime; you could be fined and imprisoned.**

If you decide to file without an attorney, the court expects you to follow the rules as if you had hired an attorney. The court will not treat you differently because you are filing for yourself. To be successful, you must be familiar with the United States Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the local rules of the court in which your case is filed. You must also be familiar with any state exemption laws that apply.

Are you aware that filing for bankruptcy is a serious action with long-term financial and legal consequences?

- ☐ No
☒ Yes

Are you aware that bankruptcy fraud is a serious crime and that if your bankruptcy forms are inaccurate or incomplete, you could be fined or imprisoned?

- ☐ No
☒ Yes

Did you pay or agree to pay someone who is not an attorney to help you fill out your bankruptcy forms?

- ☒ No
☐ Yes. Name of Person _____

Attach *Bankruptcy Petition Preparer's Notice, Declaration, and Signature* (Official Form 119).

By signing here, I acknowledge that I understand the risks involved in filing without an attorney. I have read and understood this notice, and I am aware that filing a bankruptcy case without an attorney may cause me to lose my rights or property if I do not properly handle the case.

X Brian Yu

Signature of Debtor 1

Date 12/18/2022
MM / DD / YYYY

Contact phone (510) 936-2181

Cell phone (510) 936-2181

Email address _____

X _____

Signature of Debtor 2

Date _____
MM / DD / YYYY

Contact phone _____

Cell phone _____

Email address _____

Exhibit “V”

**UNITED STATES BANKRUPTCY COURT
California Northern Bankruptcy Court**

In Re: Brian Yu
Debtor(s)

Case No.: 22-41315 WJL 13
Chapter: 13

**ORDER FOR INDIVIDUALS IN CHAPTER 13 CASE TO
FILE REQUIRED DOCUMENTS AND NOTICE OF AUTOMATIC DISMISSAL**

The debtor(s) named above failed to file the documents listed below when the case was commenced:

- ☒ Summary of Your Assets and Liabilities and Certain Statistical Information (Official Form 106Sum)
- ☒ Declaration About an Individual Debtor's Schedules (Official Form 106Dec)
- ☒ Schedule A/B: Property (Official Form 106A/B)
- ☒ Schedule C: The Property You Claim as Exempt (Official Form 106C)
- ☒ Schedule D: Creditors Who Have Claims Secured by Property (Official Form 106D)
- ☒ Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 106E/F)
- ☒ Schedule G: Executory Contracts and Unexpired Leases (Official Form 106G)
- ☒ Schedule H: Your Codebtors (Official Form 106H)
- ☒ Schedule I: Your Income (Official Form 106I)
- ☒ Schedule J: Your Expenses (Official Form 106J)
- ☒ Statement of Financial Affairs for Individuals Filing for Bankruptcy (Official Form 107)
- ☒ Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period (122C-1)
- ☒ Chapter 13 Calculation of Your Disposable Income (122C-2)
- ☒ Chapter 13 Plan

IT IS HEREBY ORDERED that unless, within 14 days of the petition date, the debtor(s) file each document listed above, the court may dismiss this case without further notice or a hearing. 11 U.S.C. § 521(a), Fed. R. Bankr. P. 1007(b)(1), (c).

The debtor(s) may request an extension of time to file the documents noted above, but must do so before 14 days from the petition date, or the expiration of any extension previously granted. The request may be filed electronically, mailed, or delivered in person to the address stated below, but it must be received by the court before the 14 days or any extension previously granted have expired. If an extension is granted and the documents are not filed, the case may be dismissed.

IT IS FURTHER ORDERED the debtor(s) must provide payment advices directly to the trustee at least 7 days prior to the first date set for the meeting of creditors under 11 U.S.C. § 341. The debtor(s) is referred to the court's website for further details: <https://www.canb.uscourts.gov/order/general-order-32-amended-payment-advices>. 11 U.S.C. § 521(a)(1)(B)(iv), Fed. R. Bankr. P. 1007(b)(1), (c).

Mailing Address:
U.S. Bankruptcy Court
1300 Clay Street, Suite 300
Oakland, CA 94612

In person filing via Drop Box:
U.S. Bankruptcy Court
1300 Clay Street, 2nd floor
Oakland, CA 94612

Dated: 12/29/22

By the Court:

William J. Lafferty
United States Bankruptcy Judge

Notice Recipients

District/Off: 0971-4

User: admin

Date Created: 12/29/2022

Case: 22-41315

Form ID: OFRDI

Total: 3

Recipients of Notice of Electronic Filing:

ust	Office of the U.S. Trustee/Oak	USTPRegion17.OA.ECF@usdoj.gov
tr	Martha G. Bronitsky	13trustee@oak13.com

TOTAL: 2

Recipients submitted to the BNC (Bankruptcy Noticing Center):

db	Brian Yu	36500 Alder Ct	Fremont, CA 94536
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TOTAL: 1

Exhibit “W”



CHANGES MADE BY COURT

The following constitutes the order of the Court.
Signed: January 13, 2023

Brian Yu
36500 Alder Ct,
Fremont, CA 94536
Phone: 510-936-2181

Debtor without an attorney

William J. Lafferty, III
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

In re:

Brian Yu

Debtor.

Case No.: 22-41315

**ORDER GRANTING DEBTOR'S
EX PARTE MOTION TO EXTEND
TIME TO FILE CASE
OPENING DOCUMENTS**

The court, having considered the "Debtor's Ex Parte Motion To Extend Time To File Case Opening Documents" (the "Motion") filed pursuant to Local Bankruptcy Rule 1007-1 and Federal Rule of Bankruptcy Procedure 1007(c) by Brian Yu (the "Debtor"), with good cause appearing, hereby orders as follows:

1. The Motion is granted.
2. The Debtor is hereby granted up to and including February 2, 2023 to file their Schedules Of Assets And Liabilities, Statements Of Financial Affairs and any other "Required Documents" (as that term is defined in the Motion).

IT IS SO ORDERED.

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Service List

Brian Yu
36500 Alder Ct
Fremont, CA 94536

Notice Recipients

District/Off: 0971-4

User: admin

Date Created: 1/13/2023

Case: 22-41315

Form ID: pdfec

Total: 1

Recipients submitted to the BNC (Bankruptcy Noticing Center):

db Brian Yu 36500 Alder Ct Fremont, CA 94536

TOTAL: 1

Exhibit “X”



Douglas Sykes <doug1625@gmail.com>

Roger Yu Properties Settlement Offer

6 messages

Mark J. Markus Law Office <mark@bkclaw.com>
Reply-To: mark@bkclaw.com
To: doug1625@gmail.com

Tue, Aug 30, 2022 at 4:42 PM

Dear Mr. Sykes,

As we discussed briefly on the phone yesterday, I am a bankruptcy attorney and recently consulted with Roger Yu regarding filing a bankruptcy case for him. Before proceeding with that case, he wanted me to contact you to discuss possible full settlement of his loans with you including release of the junior liens (Deeds of trust) you hold against four of his properties, prior to any foreclosure sale.

It is my understanding that each of the properties owned by Mr. Yu on which you hold Deeds of Trust securing 2nd position loans have been declared uninhabitable by the City inspectors although you mentioned that the red tag may have been removed on the Cherry Street Property.

In any event, the cost to bring the properties into compliance and make them habitable would exceed any equity there may be in any of the properties. Also, none of the properties has tenants and are not, therefore, receiving any rental income.

On that note, could you please also let me know on what date(s) you saw someone at the larger Fremont property? Mr. Yu, who is out of the country now, said he would need to further investigate this matter because all the four properties have been declared uninhabitable and were abandoned long ago and nobody can live in any of the four properties. The next door neighbor of the larger Fremont property is an Asian family, but there should not be anyone living in any of the four properties.

Mr. Yu is willing to let the properties go to foreclosure and he can discharge any deficiency amount owed in his bankruptcy case, but as a favor he wants to give you some preference over his institutional creditors as you have been personally helpful to him, and see if he can perhaps avoid filing bankruptcy.

Mr. Yu has a limited ability to obtain funds from a third party to settle your loans. Therefore, Mr Yu offers you a total payment of \$400,000.00 to be a full and final satisfaction of all amounts owed to you under your Notes and for a release of all Deeds of Trust you hold on Mr. Yu's four properties. This amount would be allocated proportionally to each property, with a cancellation of debt on the remaining balance, and recordation of release of the liens.

Mr. Sykes,

You are correct that Mr. Yu could simply walk away from the properties. But because there is no real equity in any of the properties, you can seek a deficiency judgment against him for practically the full amount owed. Thus, the purpose of the bankruptcy filing would be to discharge that remaining liability after foreclosure sales take place, as well as deal with other institutional debts he has.

He has actually been trying to sell the properties for months, and has received a number of bids. But every single bid he has received was not even enough to pay back the senior mortgage liens on each property.

Mr. Yu has also spoken to multiple contractors regarding how to deal with the properties, and after seeing the actual conditions of properties, every contractor has determined that the only viable path is to demolish and rebuild, because it would cost more to bring the properties into compliance and make them habitable.

If you are not interested in the current offer we provided to you, could you please make us a counter offer to keep the ball rolling? I will then relay your counter offer to my client, and urge him to consider.

Thank you.

Sincerely,

Mark

[Quoted text hidden]

-

-

-

[Quoted text hidden]

Douglas Sykes <doug1625@gmail.com>
To: mark@bkclaw.com
Bcc: "doug1625@gmail.com" <doug1625@gmail.com>

Wed, Aug 31, 2022 at 7:43 PM

Given that your client has antideficiency protection, he would not be filing bankruptcy to avoid my seeking a deficiency judgment. Correct me if I am wrong.

Douglas Sykes
[Quoted text hidden]

Douglas Sykes <doug1625@gmail.com>
To: mark@bkclaw.com
Bcc: "doug1625@gmail.com" <doug1625@gmail.com>

Fri, Sep 2, 2022 at 11:51 AM

I will get back to you sometime next week as to whether I can present a counter offer.

Thanks.



Douglas Sykes <doug1625@gmail.com>

Roger Yu Properties Settlement Offer

6 messages

Mark J. Markus Law Office <mark@bkclaw.com>
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Thank you.

Sincerely,

Mark

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To: mark@bkclaw.com
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Wed, Aug 31, 2022 at 7:43 PM

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Fri, Sep 2, 2022 at 11:51 AM

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Thanks.